

SECOND REPORT

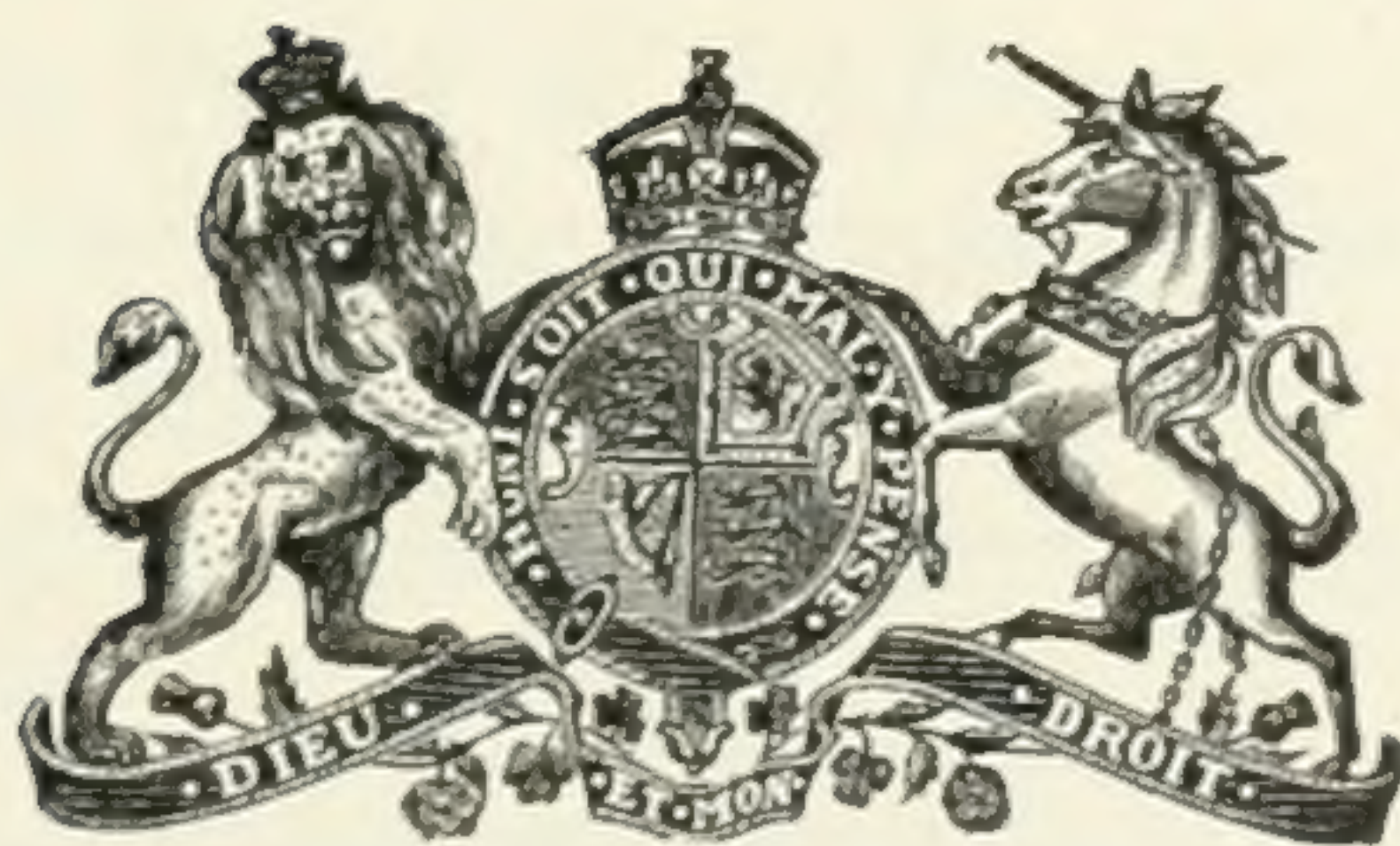
OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

FOR THE YEAR ENDED MARCH 31

1907

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

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1907

CONTENTS.

	PAGE.
Commission..	1
Jurisdiction and General Powers..	1
Location of Line of Railway..	2
Taking and Using of Lands..	3
Branch Lines..	3
Telegraph, Telephone and other Lines and Wires..	4
Operation of Trains..	4
Traffic by Water..	5
Express Tolls..	5
Telephone Tolls..	5
Practice and Procedure..	5
Public Sitzings of the Board..	5
Canadian Freight Classification No. 12..	6
<i>Re</i> International Rate Case..	7
<i>Re</i> Petition of the Railway Men of Ontario..	8
<i>Re</i> Telephone and Express Companies..	12
Judgments of the Board..	12
<i>Re</i> Telephone Crossings..	12
<i>Re</i> Passenger Rates..	12
Routine Work of the Board..	13
Record Branch..	13
Traffic Department..	13
Engineering Department..	13
Accident Branch..	14

APPENDICES.

A.—Names and Compensation of all Employees, together with a Statement of Appropriations and Expenditures..	15
B.—Report of the Chief Traffic Officer of the Board..	19
C.—List of Applications heard at Public Sitzings of the Board covering the period from April 1, 1906, to March 31, 1907..	27
D.—Summary of the Principal Judgments Delivered by the Board from April 1, 1906, to March 31, 1907..	47
E.—Informal Complaints Filed with the Board during the year ending March 31, 1907..	89
F.—List of Examinations and Inspections made by the Engineering Department of Board, from April 1, 1906, to March 31, 1907..	101
G.—Report of the Inspector of Accidents of the Board..	111
H.—Rules and Regulations..	119
I.—Standard Conditions and Specifications for Telephone Crossings..	137

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

A. C. KILLAM, *Chief Commissioner.*

Hon. M. E. BERNIER, *Deputy Chief Commissioner.*

JAMES MILLS, *Commissioner.*

A. D. CARTWRIGHT,
Secretary.

REPORT

OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

OTTAWA, ONT., March 31, 1907.

To His Excellency the Governor in Council:

Pursuant to the provisions of section 62 of the Railway Act, the Board of Railway Commissioners for Canada has the honour to submit its second report for the year ending March 31, 1907.

Since the submission of the board's first report, the Railway Act, 1903, has been amended in certain important particulars and revised and consolidated under chapter 37 of the Revised Statutes of Canada, 1906, intituled: 'An Act respecting Railways,' section 1 of said Act reciting that this Act may be cited as 'The Railway Act.'

The Revised Statutes of Canada, 1906, came into force on January 31, 1907, and the former public statutes were thereupon repealed, all references made after that date being to the new revision.

The following are among the more important amendments to the Railway Act of 1903:—

COMMISSION.

Section 16 of the Railway Act, 1903, was amended by inserting the following clause:

'The Board shall, within three months after the first day of March in each year, make to the Governor in Council through the minister, an annual report respecting (a) applications to and proceedings of the board under this Act and the Railway Act, 1903, during the year next preceding the thirty-first day of March; (b) such other matters as appear to the board to be of public interest in connection with the persons, companies, and railways subject to the said Acts; and (c) such matters as the Governor in Council directs.

2. The said report shall be laid before the House of Commons of Canada during the first fifteen days of the then next session of parliament.'

JURISDICTION AND GENERAL POWERS.

Section 23 of the Railway Act, 1903, was repealed and the following substituted therefor:—

'The Board shall have full jurisdiction to inquire into, hear, and determine any application by or on behalf of any party interested,—

'(a) complaining that any company or person has failed to do any act, matter, or thing required to be done by this Act, or the Special Act, or by any regulation, order, or direction made thereunder by the Governor in Council, the minister, the board, or any inspecting engineer, or that any company or person has done or is doing any act, matter, or thing contrary to, or in violation of this Act, or the Special Act, or any such regulation, order, or direction; or,

7-8 EDWARD VII., A. 1908

‘(b) requesting the Board to make any order, or give any direction, sanction, or approval, which by law it is authorized to make or give, or with respect to any matter, act, or thing which by this Act or the Special Act is prohibited, sanctioned, or required to be done.

‘2. The Board may order and require any company or person to do forthwith, or within or at any specified time, and in any manner prescribed by the board, so far as is not inconsistent with this Act, any act, matter, or thing which such company or person is or may be required or authorized to do under this Act, or the Special Act, and may forbid the doing or continuing of any act, matter, or thing which is contrary to this Act or the Special Act.

‘3. For the purposes of this Act the Board shall have full jurisdiction to hear and determine all matters whether of law or of fact, and shall, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property and other matters necessary or proper for the due exercise of its jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights, and privileges as are vested in a superior court.

‘4. The Board may order that any witness resident or present in Canada be examined under oath before, or make production of books, papers, documents or articles to, any one member of the Board, or before or to any officer of the Board, or before or to any other person named for the purpose by the order of the Board, and may make such orders as seem to it proper for securing the attendance of such witness and his examination, and the production by him of books, papers, documents, or articles, and the use of the evidence so obtained, and otherwise exercise, for the enforcement of such orders or punishment for disobedience thereof, all powers that are exercised by any superior court in Canada for the enforcement of subpoenas to witnesses or punishment of disobedience thereof: Provided, however, that no person shall be compellable, against his will, to attend for such examination or production at any place outside the province in which he is served with the order of the Board for the purpose.

‘5. The Board may issue commissions to take evidence in a foreign country, and make all proper orders for the purpose, and for the return and use of the evidence so obtained.

‘6. The fact that a receiver, manager, or other official of any railway, or a receiver of the property of a railway company, has been appointed by any court in Canada or any province thereof, or is managing or operating a railway under the authority of any such court, shall not be a bar to the exercise by the Board of any jurisdiction conferred by this Act; but every such receiver, manager, or official shall be bound to manage and operate any such railway in accordance with this Act and with the orders and directions of the Board, whether general or referring particularly to such railway; and every such receiver, manager, or official, and every person acting under him, shall obey all orders of the Board in respect of such railway (within the jurisdiction of the Board to make under this Act) and be subject to have them enforced against him by the board, notwithstanding the fact that such receiver, manager, official, or person is appointed by or acts under the authority of any court.

‘7. The decision of the Board as to whether any company, municipality or person is or is not a party interested within the meaning of this section shall be binding and conclusive upon all companies, municipalities and persons and in all courts.’

LOCATION OF LINE OF RAILWAY.

Subsection 1 of section 123 of the Railway Act, 1903, was repealed and the following substituted therefor:—

‘Such plan, profile and book of reference shall be submitted to the Board who, if satisfied therewith, may sanction the same, and by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof, as shown in such plan, profile and book of reference, but not to have relieved the com-

SESSIONAL PAPER No. 20c

pany from otherwise complying with this Act. In granting any such sanction the Board shall be bound by the general location as approved by the minister, provided that the Board may, unless the minister otherwise specifically directs, sanction a deviation of not more than one mile from any one point on the said general location so approved.'

TAKING AND USING OF LANDS.

Subsection 1 of section 139 of the Railway Act, 1903, was repealed and the following substituted therefor:—

'Should the company require, at any point on the railway, more ample space than it then possesses or may take under the preceding section, for the convenient accommodation of the public, or the traffic on its railway, or for protection against snow-drifts, or for the diversion of a highway, or for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the Special Act, or to secure the efficient construction, maintenance, or operation of the railway, it may apply to the Board for authority to take the same, for such purposes, without the consent of the owner.'

The said section 139 is further amended by adding at the end thereof the following subsection:—

'The Board may, upon consent in writing having been first obtained from the minister in that behalf, repeal, rescind, change, or vary any certificate of the minister made under section 109 of the Railway Act, chapter 29 of the statutes of 1888.'

Section 159 of the said Act was amended by adding thereto the following subsection:—

'If the opposite party is absent from the district or county in which the lands lie, or is unknown, service of such six days' notice may be made by advertisement as in the next two preceding sections provided: Provided that the judge may dispense with, or shorten the time or times for the publication of the notice in any such case in which he deems it proper.'

BRANCH LINES.

Subsection 3 of section 175 of the Railway Act, 1903, was repealed and the following substituted therefor:—

'Upon such deposit, the company shall give four weeks' notice of its intention to apply to the Board under this section, in some newspaper published in each country or district through which the branch line is to pass, or if there should be no newspaper published in any such county or district, then for the same period in the *Canada Gazette*: Provided that the Board may dispense with or shorten the time of such notice in any case in which it deems it proper.'

Section 177 was repealed and the following substituted therefor:—

'The railway lines or tracks of any company shall not cross or join, or be crossed or joined, by or with any other railway lines or tracks (other than those of such company), whether otherwise within the legislative authority of the parliament of Canada or not, until leave therefor has been obtained from the Board as hereinafter provided.

'2. Upon any application for such leave, the applicant shall submit to the board a plan and profile of such crossing or junction, and such other plans, drawings, and specifications as the Board may in any case, or by regulation, require.

'The Board may by order grant such application on such terms as to protection and safety as it deems expedient, may change the plan and profile, drawings, and specifications, so submitted, and fix the place and mode of crossing or junction, and may direct that one line or track, or one set of lines or tracks, be carried over or under another line or track or set of lines or tracks, and that such works, structures, equipment, appliances, and materials be constructed, provided, installed, maintained, used,

7-8 EDWARD VII., A. 1908

or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage, and may determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works.

‘3. The Board may give directions as to supervision of the construction of the works, and order that detailed plans, drawings, and specifications of any works, structures, equipment, or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

‘4. No trains shall be operated on the lines or tracks of the applicant over, upon, or through such crossing or junction until the Board grants an order authorizing such operation, but the Board shall not grant such order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with.

‘5. Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town, or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person or persons interested, order that the lines or tracks of such railways shall be so connected, at or near the point of intersection or crossing or in or near such city, town, or village, as to admit of the safe and convenient transfer or passing of engines, cars, and trains, from the tracks or lines of one railway to those of another, and that such connection shall be maintained and used. In and by the order for such connection or from time to time subsequently, the Board may determine by which company or companies, or other corporations or persons, and in which proportions, the cost of making and maintaining any such connections shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another.’

TELEGRAPH, TELEPHONE, AND OTHER LINES AND WIRES.

Section 193 of the Railway Act, 1903, was amended by inserting and also by adding thereto as subsection 2, the following:—

‘Notwithstanding anything in any Act contained, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease, or agreement now or hereafter in force by which the company has given or gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises.’

OPERATION OF TRAINS.

Subsection 4 of section 214 of the Act was repealed and the following substituted therefor:—

‘If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests, or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act or by any orders or regulations of the Board made within its jurisdiction under the provisions of this Act.’

Section 253 of the Railway Act is amended by adding thereto the following subsections:—

‘3. The reasonable facilities which every railway company is required to afford under this section, shall include reasonable facilities for the junction of private sidings

SESSIONAL PAPER No. 20c

or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding, and delivering traffic upon and from those sidings or private branch railways, and the adequate and suitable accommodation referred to in section 214 of this Act shall include the reasonable facilities above mentioned, together with the placing of cars and moving them upon and from such private sidings and private branch railways.

'4. For the purposes of this section, or of section 214 of this Act, the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power, or other equipment be allotted, distributed, used, or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally.'

TRAFFIC BY WATER.

Section 276 of the Railway Act, 1903, was repealed and the following sections substituted therefor:—

'When the company owns, charters, uses, maintains, or works, or is a party to any arrangement for using, maintaining, or working vessels for carrying traffic, by sea or by inland water, between any places or ports in Canada, the provisions of this Act in respect of tolls, tariffs, and joint tariffs shall, so far as they are applicable, extend to the traffic carried thereby.

'2. Where any such vessel carries traffic between a port in Canada reached by such company and a port in Canada reached by the railway of another company, the vessel and the railway of either company shall be deemed to constitute a continuous route in Canada within the meaning of section 266 of this Act.'

EXPRESS TOLLS.

By section 27 of the amending Act, all express tolls are subject to the approval of the Board and are to be filed with and dealt with by the Board as herein provided.

TELEPHONE TOLLS.

By section 29 of the amending Act, all telephone tolls to be charged by any company having legislative authority from the parliament of Canada to construct and operate a telephone system or line are subject to the approval of the Board, and are to be filed with and dealt with by the Board as herein provided.

PRACTICE AND PROCEDURE.

Several changes and alterations have been made in the rules and regulations of the Board; and the Board issued new rules and regulations under date of December 10, 1906. The amended rules and regulations as sanctioned by the Board will be found in appendix H.

PUBLIC SITTINGS OF THE BOARD.

Public sittings of the Board were held at the following times and in the following places in the various provinces of the Dominion of Canada:—

Province of Ontario—

Chatham, 3rd May, 1906.

Essex, 17th October, 1906.

Hamilton, 8th May, 1906, and 13th December, 1906.

Ottawa, 10th, 11th, 12th April, 1906. 6th, 12th, 14th, 26th, 27th June, 1906.

1st August, 1906. 23rd, 24th October, 1906. 15th, 16th, 27th November, 1906.

20th December, 1906. 8th, 15th, 25th, 31st January, 1907. 1st, 5th, 12th,

19th, 20th February, 1907. 5th, 6th, 19th, 26th, 27th March, 1907.

7-8 EDWARD VII., A. 1908

Province of Ontario—Concluded.

Oshawa, 11th December, 1906.

Owen Sound, 13th November, 1906.

Paris, 1st May, 1906.

Stratford, 8th May, 1906.

Strathroy, 2nd May, 1906.

Toronto, 17th, 18th, 19th and 20th April, 1906. 9th, 29th May, 1906. 22nd November, 1906. 12th December, 1906.

Waterloo, 7th May, 1906.

Windsor, 4th May, 1906.

Woodstock, 21st November, 1906.

Province of Quebec—

Côte St. Paul, 21st April, 1906.

Montreal, 30th October, 1906. 22nd January, 1907.

Province of Manitoba—

Brandon, 20th September, 1906.

Winnipeg, 21st, 22nd, 27th September, 1906.

Province of Alberta—

Calgary, 6th and 17th September, 1906.

Edmonton, 10th September, 1906.

Leduc, 7th September, 1906.

High River, 4th September, 1906.

Province of Saskatchewan—

Regina, 18th and 19th September, 1906.

Province of British Columbia—

Nelson, 14th September, 1906.

Rossland, 15th September, 1906.

Vancouver, 11th October, 1906.

Yukon Territory—

Dawson, 20th, 21st, 22nd August, 1906.

Total number of public sittings at various places in the Dominion of Canada, as above set forth, was 63, at which sittings 214 applications were heard. The various applications are set forth in appendix 'C.'

Among the more important matters dealt with by the Board at the public sittings above enumerated, special attention might properly be directed to the following:—

CANADIAN FREIGHT CLASSIFICATION No. 12.

Application was made to the Board by the Canadian Manufacturers' Association, in regard to the Canadian Freight Classification No. 12, asking for the restoration of former Rule No. 2 governing mixed carloads of freight, as in effect prior to the issue of the said Canadian Freight Classification on shipments between points west of and including Port Arthur, and shipments from points east of Port Arthur to points west thereof, and as in effect between points east of Port Arthur; also in regard to Rule No. 6 regarding minimum charge for articles necessitating platform cars for carriage as being excessive and discriminatory as between United States and Canadian shippers and asking that a reduction be made from minimum 6,000 to 4,000 lbs.; also for reduction in the additional charge demanded by the carriers under Rule No. 7 of said classification, in the case of goods classified to be carried at owner's risk but charged at carriers' risk; also for reduction of minimum charge for single

SESSIONAL PAPER No. 20c

consignment commonly known as the 'small rate,' as defined in Rule 30, from 35 cents to 25 cents.

At the hearing of the application of the Canadian Manufacturers' Association, other complaints against the classification were taken up and considered by the Board; and the Board held sittings at the following places in connection with the application above referred to, namely: Montreal, Ottawa, Winnipeg, Regina, Vancouver, Nelson, Sarnia, Chatham, Windsor and Toronto; the Canadian Manufacturers being represented by Mr. Marlow and the railway companies by the Advisory Committee of the Canadian Freight Association. As a result of the various sittings and hearings, a new classification consolidating the old ones and its supplements is now being prepared by a classification committee composed of representatives of the various railway companies interested, the chief traffic officer of the Board, and the representative of the Canadian Manufacturers' Association; and it is hoped that the new classification will, to a large extent, do away with the existing ground for complaint.

Re INTERNATIONAL RATE CASE.

The Board received a number of complaints from parties in western Ontario charging that the railway companies carried traffic from points in the United States west of the Rivers St. Clair and Detroit to points in Canada at lower rates than from points on the railways in western Canada. Sittings were held by the board at Chatham and other places; and the matter is now under the consideration of a special committee composed as follows: W. R. MacInnes, Freight Traffic Manager, Canadian Pacific; Jno. W. Loud, Freight Traffic Manager, Grand Trunk Railway; T. Marshall, Secretary, Canadian Freight Association; J. R. Marlow, Manager, Transportation Department, Canadian Manufacturers' Association; Jas. Hardwell, Chief Traffic Officer, Board of Railway Commissioners, and will be definitely dealt with by the Board at an early date. The complainants were represented at the sittings of the Board held at Chatham, Ontario, May 3, 1906; Windsor, Ontario, May 4, 1906; Toronto, Ontario, May 29, 1906; Ottawa, Ontario, June 6, 1906, by the Canadian Manufacturers' Association; and, as a result, the following letter was sent to the chairman of the Advisory Committee of the Canadian Freight Association, Montreal:

OTTAWA, July 4, 1907.

Re Freight Rates discrimination in favour of Michigan as against Western Ontario.

SIR,—I am directed by the Board to inform you that it has had under consideration the several complaints from points in western Ontario against the charging by railway companies of heavier freight rates on shipments to points in Canada eastward therefrom than are charged by the same companies for shipments to the same points from points in the United States west of the Detroit river, and the Board is of opinion that some attempt should be made to avoid this anomaly.

I am further directed to point out that the provisions of that part of subsection 3 of section 252 of the Railway Act, 1903, known as the 'long and short haul clause,' have been adopted in the legislation of the United States as well as in that of Canada; and to say that these provisions appear to the Board to be consonant with natural justice, and such as should be applied, as far as reasonably possible without disregarding proper interests, to the cases in question. It appears to the Board that the clause in question is applicable to joint tariffs relating to traffic from points in the United States west of the River Detroit to points in Canada eastward therefrom, which, in themselves, or by comparison with tariffs for traffic carried easterly from points in western Ontario, where the shorter distance is included in the longer one, violate this rule.

I am also directed to point out that, in the clause referred to, competition alone is mentioned as justifying any modification of the general rule.

The Board recognizes that the conditions of this traffic are affected by the existence of companies in the United States independent of those operating in Canada, and

7-8 EDWARD VII., A. 1908

by the operation of the corresponding clause of the statute law in the United States, and that the harmonizing of interests in making the changes necessary to apply the rule to traffic originating in the United States, destined for points in Canada, is a work of difficulty, and it thinks that the Canadian railway companies should be given an opportunity to lay a scheme before the Board for its consideration after negotiating with companies operating in the United States; and for that purpose the Board will defer further consideration of these complaints for a period of ninety days.

I have the honour to be, sir,

Your obedient servant,

J. W. LOUD, Esq.,

Chairman Advisory Committee,
Canadian Freight Association,
Montreal, Que.

A. D. CARTWRIGHT.

The railway companies submitted new tariffs; these tariffs were discussed at a joint meeting at which the representatives of the railway companies, the chief traffic officer of the Board, and the representative of the Canadian Manufacturers' Association were present; and new tariffs are now being prepared.

In connection with this case, there should be mentioned the complaint filed by the Toronto Board of Trade, that the rates from Toronto eastward were higher than from Montreal westward, thus constituting an unjust discrimination; also that the rate from local surrounding points in Ontario were lower than from Toronto. The Board found the subject of this latter complaint to be so interwoven with the complaints before referred to from western Ontario that it deemed desirable that the Toronto Board of Trade complaint should be taken up in conjunction with the international rate case, to be dealt with at the same time.

Re PETITION OF THE RAILWAY MEN OF ONTARIO.

The board held a special session in Ottawa, commencing on Tuesday, February 5, 1907, to consider the matters set forth in the following notice of sittings:—

‘ OTTAWA, ONT., January 2, 1907.

‘ Notice of Sittings.

‘ The Board of Railway Commissioners for Canada will hold a session at 66 Queen street, in the city of Ottawa, on Tuesday, the 5th day of February, 1907, at the hour of 11 o'clock in the forenoon, to discuss and settle upon a system of operating rules for the various railways subject to the jurisdiction of the Board. The Board will also consider at such meeting the petition of the railway trainmen of Ontario, dated the 28th day of April, 1906, and the representations of employees in relation thereto, as made before the board on the 15th day of June, 1906; and the Board desires to have the contents of such petition and the representations referred to fully discussed at the said meeting on February 5, 1907, and all possible information in respect thereto then given.

‘ The Board would like also to have consideration then given to the subjects enumerated below, and to receive information in relation thereto:—

‘ 1. Railway accidents and precautions for preventing the same.

‘ 2. Provisions for cleanliness, ventilation and health at passenger stations.

‘ 3. Supply of equipment and adoption of methods to ensure more prompt and efficient service on railways.

‘ 4. Car supply for traffic originating on short local lines for carriage for long distances over other lines.

‘ 5. Mechanical appliances and fireguards for preventing the setting or spreading of fires from locomotive engines, especially on the prairies.

SESSIONAL PAPER No. 20c

‘6. Equipment of cars carrying lumber and similar commodities, and rules regulating the same.

‘7. Width of gates and planking at farm crossings.

‘8. Forms of orders for railway crossings.

‘9. Supply of ice at convenient points for the icing of refrigerator cars for shipment, and provision for reicing the same in transit for export and to the western provinces.

‘10. Compliance with section 216 requiring the wearing of badges by railway officials.

‘11. More careful compliance with section 231 of the Railway Act, respecting notices of delayed trains.

‘12. Compliance with section 215 of the Railway Act, requiring trains to be run according to schedule time.

‘13. Such other subjects connected with the management and operation of railways as it may then appear to those skilled therein desirable to discuss before the Board.

‘By order of the Board,

‘A. D. CARTWRIGHT,
‘Secretary.’

The petition of the railway men of Ontario, dated April 28, 1906, above referred to, was as follows:—

‘April 28, 1906.

‘To the Honourable H. EMMERSON,
‘Minister of Railways and Canals.

‘*To the Honourable, the Board of Railway Commissioners of Canada:*

‘GENTLEMEN,—The representatives of the railway trainmen of Ontario, comprising the majority of trainmen of Canada, have under discussion a number of matters, directly affecting them, and beg to present for your consideration the following matters, which have been unanimously approved by them, and which they desire to see enacted as part of the laws of Canada:—

‘1. A law prohibiting the placing of crippled cars on trains, unless accompanied by a competent man in charge of them.

‘2. A law compelling all railway companies to equip all freight cars with operating levers on both sides of draw-bars, instead of only one side, as at present, as a great many men are killed and injured going between cars to uncouple them.

‘3. A law compelling all railways to have all overhead wires crossing all railway tracks, placed under ground.

‘4. A law compelling all railways to equip all engine tenders with safety handholds, and steps, one on each side of engine at rear end of tender, and all yard engines with footboards and safety handholds and headlights on front and rear of engine.

‘5. A law compelling all railways to cover all open drains in yards and to make all obstructions between tracks level with the surface.

‘6. A law compelling all railways to place all obstructions and structures not less than 6 feet clear of rail.

‘7. A law compelling all railways to have not less than five men on a train or yard engine, consisting of engineer, fireman, conductor and two brakemen, and, where semaphores and yard limit board are not absolute protection against all trains except first-class passenger trains, that a flagman be added to this number. This not to apply to engines running light, which must not have less than three men, consisting of engineer, fireman and conductor.

‘8. A law compelling all railways to pack properly all switches, frogs and wing rails, and the present exemptions abolished.

‘9. A law compelling all railways to haul not more than 50 cars on any train, and prohibit the running of double-headers in freight service, as we know that it is

7-8 EDWARD VII., A. 1908

unsafe to handle more than 50 cars, that being as far as the ordinary employee can distinguish a single; any more cars make it a very great source of danger, not only to employees, but to the travelling public; and the great danger incurred by running double-headers is too self-evident to require discussion.

‘We would strongly recommend the following changes:—’

‘That passenger trainmen have at least one year in freight or yard service before being employed as passenger brakemen.

‘That the law regarding the loading of lumber, stone, steel rails, &c., be more strictly enforced.

‘That at least two inspectors be employed by you for the purpose of making a thorough investigation of all railroad accidents, which result in injuries or death, with power to examine witness under oath if necessary.

‘That competent inspectors be appointed for the purpose of seeing that the law regarding safety appliances is properly enforced, and that no extension of time be given any railway company for the proper equipment of their rolling stock, so far as safety appliances are concerned.

‘We would beg to draw your attention to the fact that the conditions of the railway service having materially changed, during the past few years, there is not the same necessity for brakemen riding on deck one mile from all stations as previously existed. We would, therefore, recommend that this order from the Governor in Council be rescinded.

‘We would also recommend that the duty on bituminous coal entering Ontario be abolished, as we consider it an injustice to all railroads concerned.

‘The question of making some arrangements for the formation of a pension and superannuation fund was thoroughly discussed and the following resolutions adopted:

‘That inasmuch as we are a semi-public body undergoing great risk to life and limb, in all conditions of weather, and at all hours of day and night, in order that the transportation service of the country may be handled with safety and despatch,

‘Resolved, that we petition the Dominion government to adopt a system of superannuation and pension for old, injured or disabled employees, under direction and control of government, and maintained collectively by the government and all railway companies in Canada.

‘We would respectfully request that you arrange a meeting between yourself, the Board of Railway Commissioners and the undersigned at as early a date as possible, when the several matters outlined could be taken up and some understanding arrived at regarding them.

‘We beg to remain, yours respectfully,

‘(Sgd.) T. G. COURTENAY, Chairman, Box 838, St. Thomas, Ont.

‘M. J. McCAUL, Vice-Chairman, Smith’s Falls, Ont.

‘ALF. E. SAVAGE, Secretary, Niagara Falls, Ont.’

At the meeting held, pursuant to the notice herein referred to, the following representatives were present:—

For the Trainmen—

Mr. Harvey Hall, legislative representative of the Railway Brotherhood.

Mr. T. G. Courtenay, Chairman Ontario Legislative Board.

Mr. James Murdock, 3rd Vice-President of the Brotherhood of Railway Trainmen of America.

Mr. S. N. Berry, 3rd Vice-President of the Order of Railway Conductors of America.

Mr. David Campbell, Vice-President Order of Railway Telegraphers.

Mr. Ash Kennedy, General Chairman of Engineers, C.P.R.

SESSIONAL PAPER No. 20c

For the Grand Trunk Railway—

Mr. M. K. Cowan, K.C.

Mr. F. H. McGuigan, 3rd Vice-President.

Mr. W. G. Brownlee, General Transportation Manager.

Mr. W. McWood, Supt. Car Department.

For the Canadian Pacific Railway Company—

Mr. E. W. Beatty, Assistant Solicitor.

Mr. J. W. Leonard, Assistant General Manager.

Mr. N. Cauchon.

For the Michigan Central Railroad—

Mr. Saunders, Counsel.

Mr. R. H. L'Hommedieu, General Manager.

Mr. W. S. Kinnear, Assistant General Manager.

Mr. D. H. Webb, Chief Engineer.

Mr. H. C. Nutt, General Superintendent.

Mr. G. W. Babbitt.

Mr. H. H. Adams, Division Superintendent.

For the Père Marquette Railroad—

Mr. William Cotter, General Manager.

For the Central Ontario Railway—

Mr. George Collins, Manager.

For the New York and Ottawa Railway—

Mr. W. H. Gays, General Manager.

For the Car Service Bureau—

Mr. J. E. Duval.

The discussion in connection with the above matters, and the evidence taken covered a period of three days; and it was suggested that a committee of five, representing the railways in Canada subject to the jurisdiction of the Board, be appointed to draft a set of operating rules. The first meeting of the committee to be convened early in April, 1907, and a draft copy of the proposed rules to be submitted to the Board not later than June 1, 1907. This suggestion was acceded to by all parties present; and subsequently a committee was appointed composed of one representative from each of the following companies, namely:

The Grand Trunk Railway Company of Canada.

The Canadian Pacific Railway Company.

The Michigan Central Railroad.

The Canadian Northern Railway Company.

The Great Northern Railway Company (lines in Canada).

Mr. W. W. Ashald, of the Grand Trunk Railway Company, was appointed chairman, and Mr. G. W. Babbitt, of the Michigan Central Railroad, secretary.

The operating rules, when drafted, will be submitted to the representatives of the Trainmen's Union and other parties interested, for consideration and for suggestions in regard thereto, before being finally dealt with by the Board.

The Board hopes that the bringing together of the employees (through their representatives) and the various railway companies will be productive of good results in establishing a better understanding between the parties interested, and in assisting the Board in dealing in satisfactory manner with the many complex questions involved in fixing a standard code of operating rules.

7-8 EDWARD VII., A. 1908

Re TELEPHONE AND EXPRESS COMPANIES.

At the suggestion of the Board, the Governor in Council appointed a senior counsel, a junior counsel, and an accountant, to make a full inquiry into the affairs of telephone and express companies, in order to lay before the Board in a concise form all possible information which could assist the Board in deciding what tolls should be approved for these companies, and to save the Board from having to make inquiries into matters of detail. The officers connected with the commission are now actively engaged in prosecuting inquiries, and it is expected that their labours will be completed at an early date, when the tariffs of the telephone and express companies will be taken up and dealt with by the Board.

JUDGMENTS OF THE BOARD.

The summary of judgments delivered by the Board covering the year ending March 31, 1907, prepared by the law clerk, Mr. A. G. Blair, will be found in appendix, 'D.'

Re TELEPHONE CROSSINGS.

The Board made a general order approving standard conditions and specifications for telephone wire crossings of railways, under date of March 27, 1907. A copy of the conditions and specifications approved by the Board will be found in appendix 'I.'

Re PASSENGER RATES.

Application having been made to the Board by the Associated Boards of Trade of Western Canada for a reduction in the passenger rates of railway companies operating in the provinces of Alberta and Saskatchewan, and the Board having been in receipt of complaints from the Kingston Board of Trade and other corporations in the province of Ontario alleging that the passenger rates charged by the Grand Trunk Railway Company were excessive, the Board, after hearing the Grand Trunk and Canadian Pacific Railway Companies, made an order directing that the Canadian Pacific and Grand Trunk Railway Companies reduce their first-class passenger rates on all lines in Canada east of and including the Calgary and Edmonton Railway Company, so that the same should not exceed 3 cents per mile, and that the said reduction should take effect within sixty days from the date of the order (March 18, 1907), within which time the passenger tariffs of the said companies were to be altered accordingly, and the following circular was sent to the other railways subject to the jurisdiction of the board:—

‘ March 31, 1907.

‘ Re Passenger Rates.

‘ DEAR SIR,—I am directed by the board to inform you that on March 18 an order was issued by it directing the Grand Trunk and Canadian Pacific Railway Companies to reduce their passenger rates over their lines in Canada east of and including the Calgary and Edmonton Railway to the basis of three cents per mile; I am also requested to ask whether your company is willing that its standard passenger tariffs should be similarly reduced, and, if not, on what grounds you object to this being done, such reduction to take effect within sixty days from March 18, in order that the passenger tariffs of the companies may be altered and made effective accordingly.

‘ The Board desires that you furnish a reply to this communication within ten days after its receipt.

‘ Yours truly,

‘ A. D. CARTWRIGHT,

‘ Secy., B. R. C.’

SESSIONAL PAPER No. 20c

As soon as replies are received from the various companies the Board purposes to take up and deal with the matter of a general reduction by railway companies other than the Grand Trunk and Canadian Pacific, which have already been dealt with under said order of March 18, 1907.

ROUTINE WORK OF THE BOARD.

Record Branch.

Since the publication of the last report, three clerks have been added to the staff of the Record Branch of the Board; but, owing to the steady increase in the number of applications, &c., filed, further additions to the staff will be necessary in the near future. This department, as was previously stated, is under the immediate supervision of the secretary of the Board, who is assisted in his work by Mr. A. E. Ecclestone, secretary to the secretary. Arrangements have been made to have the record room removed from the second floor of the building now occupied by the Board, to the first floor, which will give much needed additional space for keeping the records and for the accommodation of the record staff. At the present rate of increase in the work of the Board, it will be a matter only of comparatively short time before additional space will be required in order that the work of the Board may be effectively carried on, particularly in view of the fact that express company and telephone company tariffs have been placed under the jurisdiction of the board. By reference to the sub-joined table, it will be seen that the number of applications, filings, and orders, shows a very marked increase over that for last year. A list of informal complaints will be found in appendix 'E,' covering the year ending March 31, 1907; and attention might again be drawn to the fact that most of these complaints are taken up and dealt with by the Board and settled without the necessity of a public hearing.

With regard to the cases heard by the Board at public sittings during the year covered by this report, it is worthy of mention that over 20,595 folios of testimony were taken before the Board at these hearings. The following is a table of formal applications and informal complaints received under the Act, documents filed, and orders issued by the Board, compared with those of the year ending March 31, 1906:—

	April 1, 1905 to March 31, 1906.	April 1, 1906 to March 31, 1907.	Increase.
Applications..	1,487	2,936	1,449
Filings..	17,653	26,933	9,280
Orders..	617	1,741	1,124

TRAFFIC DEPARTMENT.

Since the issuance of the last report, there has been an addition of one clerk to this department; but owing to the fact that the express companies and certain telephone companies are now under the jurisdiction of the Board, it will doubtless be necessary in the near future to make a material increase in the clerical staff of this department. In connection with this department the Board has recommended the appointment of an operating assistant to the chief traffic officer, whose chief duty will be to assist the chief traffic officer in obtaining necessary information in regard to railway equipment, as well as in looking into and reporting on the condition of the rolling stock, &c., of the various railways subject to the jurisdiction of the Board. A statement of the freight and passenger schedules filed with the Board between April 1, 1906, and March 31, 1907, will be found with the report of the chief traffic officer of the Board in appendix 'B.'

ENGINEERING DEPARTMENT.

The Board found it necessary to have an additional engineer in this department, and, accordingly, on June 25, 1906, Mr. H. A. K. Drury was appointed second assist-

7-8 EDWARD VII., A. 1908

ant engineer. Mr. Drury has made his headquarters at Winnipeg, the Board having found it impracticable to carry on the work in the western provinces connected with the engineering department expeditiously, without having an official stationed at Winnipeg, or some other central point in the west, who could make inspections, &c., when required by the Board. In addition to his work as assistant engineer, Mr. Drury has been required from time to time to make reports respecting accidents on railways in the west, and to investigate complaints regarding car shortage in the western provinces. This, however, is only a temporary expedient, as, without doubt, the Board will find it necessary to have stationed at Winnipeg or some other convenient point, an inspector to deal with matters of this kind, as well as matters relating to railway equipment. The engineering department has also had added to its staff an electrical expert, Mr. Jno. Murphy, whose appointment dates from May 15, 1906. Mr. Murphy does not give the whole of his services to the Board, his salary being paid one-half by the Board and one-half by the Department of Railways and Canals. The necessity for such an expert exists in connection with the numerous applications made to the Board, under section 246 of the Railway Act, in the matter of telephone crossings and crossings of high transmission power wires over railways. A list of examinations and inspections made by the engineering department of the Board for the year ending March 31, 1907, will be found in appendix 'B.'

ACCIDENT BRANCH.

As pointed out in the first report of the Board, it was found impossible for one man to investigate all railway accidents throughout Canada; so the Board has had added to its staff Mr. Jas. Ogilvie as inspector of railway equipment and safety appliances, his appointment dating from March 4, 1907. This appointment was rendered imperative by the numerous complaints that the Board received regarding railway equipment generally. The Board has at the present time under contemplation further appointments to the accident branch, as well as in connection with railway equipment and safety appliances. A list of reports of accidents and investigations covering the year ending March 31, 1907, will be found in appendix 'G.'

All of which is respectfully submitted.

A. C. KILLAM,
Chief Commissioner.

M. E. BERNIER,
Deputy Chief Commissioner.

JAMES MILLS,
Commissioner.

APPENDIX A.

NAMES AND COMPENSATION OF ALL EMPLOYEES,

TOGETHER WITH

A STATEMENT OF APPROPRIATIONS
AND EXPENDITURES

APPENDIX A.

CLERICAL STAFF of the Board of Railway Commissioners for Canada, for the year ending March 31, 1907.

No.	Name.	Office.	Date of Order in Council.		Per Annum.
					\$
1	G. A. Mountain.	Chief Engineer.....	June	30, 1904..	4,800
2	J. Hardwell	Traffic Expert.....	"	22, 1904..	3,600
3	A. G. Blair.....	Law Clerk.....	July	20, 1904..	2,500
4	T. L. Simmons	1st Asst. Engineer.....	Oct.	3, 1904..	2,500
5	H. A. K. Drury.....	2nd Asst. Engineer.....	June	25, 1906..	2,500
6	E. C. Lalonde..	Inspector of Accidents.....	July	20, 1904..	2,200
7	Jas. Ogilvie.....	Inspector of Railway Equipments.....	Mar.	4, 1907..	2,200
8	E. A. Primeau.....	Registrar and Accountant.....	May	7, 1904..	2,100
9	J. H. Tessier.....	3rd Asst. Engineer.....	July	20, 1904..	2,000
10	G. A. Brown	Chief Clerk, Traffic Department.....	June	22, 1904..	2,000
11	R. Richardson.	Private Secretary to Chief Commissioner	May	1, 1905..	1,500
12	J. Murphy..	Electrical Expert.....	"	15, 1906..	1,500
13	J. W. Thomson..	Chief Clerk, Record Room.....	Sept.	1, 1904..	1,100
14	C. E. McManus..	Clerk, Traffic Department..	"	1, 1904..	1,000
15	C. C. Routhier..	" " "	Aug.	14, 1906..	1,000
16	A. E. Ecclestone..	Private Secretary to Secretary.....	"	14, 1906..	1,000
17	B. Chevrier.	Clerk and Stenographer.....	July	20, 1904..	900
18	C. N. Ham.	Clerk, Traffic Department.....	Oct.	3, 1904..	900
19	H. W. Messinger..	" " "	July	8, 1904..	900
20	C. S. Huband.	Clerk, Record Room.....	May	1, 1905..	850
21	T. Chandler	Chief Messenger and Court Usher.....	"	7, 1904..	800
22	G. T. Riddell.....	Clerk, Traffic Department.....	"	1, 1905..	800
23	L. J. Lewis.....	Clerk and Stenographer	"	7, 1904..	700
24	J. R. Foulds.....	Clerk, Record Room.....	Aug.	14, 1906..	700
25	W. A. Jamieson	" " "	"	14, 1906..	700
26	L. M. Cameron.....	Clerk and Stenographer.....	July	20, 1904..	650
27	J. Arbick.....	Clerk, Record Room	Dec.	23, 1904..	620
28	R. Larose.....	Clerk and Stenographer	May	1, 1905..	600
29	D. Langelier.....	Messenger.....	July	20, 1904..	600
30	F. R. Demers.....	Clerk, Record Room.	Aug.	14, 1905..	540
31	J. Dionne	Messenger.....	Mar.	27, 1907..	500
32	G. Taylor	Cook, car <i>Acadia</i>			720
					44,980

7-8 EDWARD VII., A. 1908

STATEMENT of Appropriation and Aggregate Expenditures of the Board of Railway Commissioners for the Fiscal Exercise commencing July 1, 1906, and ending March 31, 1907.

1st Appropriation.

Amount allowed by statute for salaries of members of commission during fiscal exercise (nine months)...	\$21,750 00
Amount voted by parliament for maintenance and operation of board; same period...	52,500 00
	<hr/> \$74,250 00

2nd Expenditure.

Amount paid as salaries to commissioners and secretary...	\$21,750 00
Amount for maintenance and operation of the board...	46,914 29
	<hr/> 68,664 29

Unexpended balance, March 31, 1907...	\$ 5,585 71
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APPENDIX B.
REPORT
OF THE
CHIEF TRAFFIC OFFICER OF THE BOARD

APPENDIX B.

REPORT OF THE CHIEF TRAFFIC OFFICER OF THE BOARD.

SIR,—I beg to submit herewith the report of the Traffic Department of the Board from February 1, 1904, to March 31, 1906, and from April 1, 1906, to March 31, 1907.

Subjoined is a statement of the freight and passenger schedules filed with the Board between November 1, 1904, when, by order of the Board, the railway companies commenced filing their tariffs, and March 31, 1906, and from April 1, 1906, to March 31, 1907, inclusive:—

Grand Total of all Schedules received from November 1, 1904, to and including March 31, 1907.

Freight—

Local tariffs.. . . .	1,760		
Supplements.. . . .	2,122	3,882	
Joint tariffs.. . . .	2,867		
Supplements.. . . .	5,838	8,705	
International tariffs.. . . .	12,396		
Supplements.. . . .	26,097	38,493	
			51,080

Passenger—

Local tariffs.. . . .	1,151		
Supplements.. . . .	531	1,682	
Joint tariffs.. . . .	543		
Supplements.. . . .	253	796	
International tariffs.. . . .	2,653		
Supplements.. . . .	1,306	3,959	
			6,437

Combined totals, freight and passenger.. . . . 57,517

Tariffs and Supplements Received from April 1, 1906, to and including March 31, 1907.

Freight—

Local tariffs.. . . .	551		
Supplements.. . . .	968	1,519	
Joint tariffs.. . . .	809		
Supplements.. . . .	2,308	3,117	
International tariffs.. . . .	3,806		
Supplements.. . . .	11,420	15,226	
			19,862

Passenger—

Local tariffs.. . . .	462		
Supplements.. . . .	193	655	
Joint tariffs.. . . .	210		
Supplements.. . . .	70	280	
International tariffs.. . . .	1,191		
Supplements.. . . .	494	1,685	
			2,620

Combined totals, freight and passenger.. . . . 22,482

7-8 EDWARD VII., A. 1908

The following orders relating to traffic on railways subject to The Railway Act have been issued by the Board from February 1, 1904, to March 31, 1906, viz.:—

March 9, 1904.—Order permitting railway companies to continue their reduced fares to clergymen; also to students of universities, colleges, and schools, to and from their homes.

June 28, 1904.—Reduction ordered in the rates on oiled clothing, in carloads, from Toronto to Halifax, Winnipeg, and Calgary.

July 16, 1904.—Canadian Freight Classification No. 12, with supplement No. 1, and ruling circular No. 1, approved.

July 30, 1904.—Railway companies ordered to cease charging prohibitive rates on cedar lumber, ties, &c., and to substitute tolls which shall not discriminate between cedar and other woods; also to amend the Canadian Freight Classification by including rails, fence posts, telegraph poles, and ties with other forest products, instead of carrying these commodities as formerly by 'special contract' only.

July 30, 1904.—Order reducing rates on cooperage stock in carloads.

July 30, 1904.—Railway companies directed to reduce their rates on glass bottles, in carloads, from Wallaceburg, Ont., to Toronto, Hamilton, Berlin, London, and Montreal.

October 3, 1904.—Order regarding special rates on material and machinery for new industries. Companies directed to report applications to the Board, which will deal with each on its merits.

October 3, 1904.—Application of Grand Trunk Railway Company for permission to charge a less rate on coal to Cobourg, Ont., for manufacturing purposes than charged to ordinary consumers and dealers declined.

October , 1904.—Reduction ordered in the rates on coal from the Niagara and Detroit frontiers to Almonte, Ont.

October 10, 1904.—Application of the United Factories for a special rate on logs, Penetanguishene to Newmarket, Ont., declined.

October 10, 1904.—Order revising and reducing the classification of fruit, and prescribing a maximum charge for icing fruit cars in transit.

October 10, 1904.—Order reducing rates on split peas, for export, to the same basis as flour, for export.

October 31, 1904.—Railway companies directed to desist from charging higher rates on cedar lumber from the mills in British Columbia than charged on pine, fir, and spruce.

December 29, 1904.—Disallowance of certain advanced freight tariffs on grain products from Ontario to the Maritime Provinces, which had been issued without legal notice. Companies directed to make restitution to the shippers.

February 9, 1905.—Conditions prescribed under which railway companies may make and report to the Board special rates in certain cases, under section 275 of the Railway Act, 1903.

February 9, 1905.—Order prescribing under what circumstances the Board will receive telegraphic notices of proposed changes in freight rates under emergency conditions.

February 9, 1905.—Canadian Northern Railway Company authorized to carry material and machinery for new industrial works at Fort Frances, Ont., at reduced rates.

March 6, 1905.—Lower rates ordered on cattle from Ontario points to Montreal, St. John, West St. John, and Portland, for export, so as to bring them more into harmony with those paid by United States shippers.

April 15, 1905.—Railway companies ordered to discontinue charging higher rates on grain between local points in Ontario and Quebec than charged on flour and other grain products between the same points.

June 2, 1905.—Preferential coal rates from Port Stanley and Rondeau, Ont., ordered discontinued.

SESSIONAL PAPER No. 20c

July 5, 1905.—Restoration ordered of rates formerly charged on metallic shingles, the increase of which had checked shipments.

July 13, 1905.—Cartage and other allowances by railway companies to shippers to offset disadvantages of location ordered discontinued, unless published in the companies' tariffs.

July 25, 1905.—Grand Trunk Railway Company ordered to provide reasonable and proper facilities for the interchange of traffic at London, Ont., and its tolls prescribed for switching traffic to and from the Canadian Pacific Railway.

July 25, 1905.—Reduction ordered in rates from Ontario on all freight traffic to Montreal, Quebec, and the Atlantic sea-board for export.

September 5, 1905.—Railway companies required to place their rates on coal from frontier ports of entry, and lake ports, to interior points in Ontario on an equal mileage basis.

1905.—Equalization of freight rates ordered to points between North Bay and Sault Ste. Marie, Ont., as between Toronto and Collingwood shippers.

September 19, 1905.—Order reducing rate charged at New Westminster, B.C., for switching grain to the distillery at Sapperton, and prescribing switching tolls within the New Westminster terminals.

October 14, 1905.—Reduced rates prescribed on stone from Manitoba quarries to Winnipeg.

October 17, 1905.—Canadian Pacific and Canadian Northern Railway Companies ordered to interchange carload freight without transshipment at Winnipeg and St. Boniface, Man., for shipment from, or delivery at, those points.

October 31, 1905.—Reduced rates ordered on beans, in carloads, from shipping points in Ontario.

November 15, 1905.—Provision made for the fair distribution of empty cars at Lake Huron and Georgian Bay ports, for the movement of northwest grain during car shortage.

November 28, 1905.—Interchange facilities ordered at Lindsay, Ont., between the Grand Trunk and Canadian Pacific Railways, and tolls prescribed for switching local traffic.

January 6, 1906.—New car service or 'demurrage' rules, more favourable to the public than the old, promulgated by the Board for use on all railways subject to its jurisdiction.

February 14, 1906.—Order reducing the rate charged by the Red Mountain Railway Company for switching ore at Rossland, B.C., for the Trail smelter.

February 14, 1906.—Reduction ordered in the rate on grain, in carloads, from the Canadian Pacific Company's elevator at Owen Sound to unloading sidings within the company's terminals at the same place.

February 19, 1906.—Canadian Northern Railway Company directed to replace the siding to Messrs. Robinson & Son's coal and wood yard at Winnipeg, which had been removed.

March 24, 1906.—Reduced minimum carload weights prescribed for freight loaded in box cars longer than the standard length of 36 feet 6 inches.

March 24, 1906.—Additions ordered to the articles which may be shipped in mixed carloads at carload rates.

March 24, 1906.—Reductions in minimum chargeable weight for light and bulky articles requiring platform cars for carriage.

The following are the principal orders and regulations relating to freight and passenger traffic on railways subject to the Railway Act, issued by the Board from April 1, 1906, to March 31, 1907, namely:—

December 14, 1905 (issued after preparation of last report).—Reduced rates prescribed on extra-compressed hay and fodder, in carloads, from Grand Trunk and

7-8 EDWARD VII., A. 1908

Canadian Pacific Railway stations in Quebec to Atlantic ports north of and including Boston, for export.

December 14, 1905 (issued after preparation of last report).—Ordered that rates on grain and grain products, in carloads, from points west of Montreal to and including Cornwall and Finch, Ont., and south of the St. Lawrence in the counties of St. Johns, Laprairie, and Napierville, Chateauguay, and Huntingdon, to points east of Lévis, Que., shall not exceed the rates from Montreal to the same points by more than 2 cents per 100 lbs., nor by more than the differences existing at date of order.

May 21, 1906.—Promulgation of additional regulations relating to the publication and filing of freight and passenger tariffs.

June 6, 1906.—The minimum carload weight of charcoal authorized by the Canadian Freight Classification not to be exceeded in commodity tariffs. Revision of commodity rates from Sault Ste. Marie ordered accordingly.

June 21, 1906.—Standard Freight Tariff of the Tillsonburg, Lake Erie and Pacific Railway Company approved.

June 29, 1906.—Reduced rates ordered on packing house products, in carloads, from packing points in Ontario to Montreal, for export.

July 18, 1906.—Tolls prescribed to be charged by the Canadian Pacific Railway Company for switching traffic interchanged with the Grand Trunk Railway Company for loading or unloading at London, Ont.

July 19, 1906.—Authority granted the Dominion Atlantic Railway Company to charge the express rate on fresh fish on special freight trains making express time, Halifax to Yarmouth, N.S., for export to Boston; when so consigned, and in quantities beyond the handling capacity of the express company.

July 31, 1906.—Renewal of the Montreal to Toronto west-bound rate ordered on wall paper from Toronto to Montreal and Ottawa, and as the maximum to intermediate points, with corresponding reductions to points east of Montreal.

August 1, 1906.—Order, supplementing order of July 30, 1904, requiring the carriage of railway ties to Canadian points at rates not exceeding the non-competitive special tariff rates on common lumber; also to United States joint rate points. Order of July 30, 1904, against the Kingston and Pembroke Railway Company made applicable to all railway companies.

August 11, 1906.—Railway companies ordered to abolish the additional arbitrary rate of 5 cents per 100 lbs. hitherto charged to British Columbia coast points on transcontinental traffic from eastern Canada; also to substitute the minimum carload weights of the Canadian Freight Classification for the higher minima previously charged on the said traffic when loaded in cars longer than the standard car of 36 feet 6 inches in length; also to reduce the weight allowance on lumber used for bracing, or otherwise safeguarding carload shipments of the said transcontinental traffic requiring such protection, to the basis allowed elsewhere in Canada.

August 26, 1906.—Standard Freight and Passenger rates of the Klondike Mines Railway Company approved.

September 17, 1906.—Standard Passenger rate of 3 cents per mile on the Thunderhill branch of the Canadian Northern Railway approved.

October 3, 1906.—Standard Freight Tariff of the Chatham, Wallaceburg and Lake Erie Railway Company approved.

October 13, 1906.—Supplement No. 7 to Canadian Freight Classification No. 12 approved.

October 13, 1906.—Nelson and Fort Sheppard and Canadian Pacific Railway Companies ordered to furnish adequate and suitable accommodation and facilities for the carriage and interchange of lumber, shingles, &c., from Salmo and Ymir, B.C., to eastern Canadian points.

November 9, 1906.—Rates reduced and prescribed on freight traffic to rail points and lake ports of call in the districts of Kootenay and Yale, B.C.

November 12, 1906.—Supplement No. 8 to Canadian Freight Classification No. 12 approved.

SESSIONAL PAPER No. 20c

November 13, 1906.—Express companies' forms of contract temporarily approved, pending inquiry.

November 16, 1906.—Order, amending order of February 14, 1906, regarding switching tolls to be charged by the Red Mountain Railway Company at Rossland, B.C.

November 19, 1906.—Order, amending order of August 26, 1906, approving the Standard Freight and Passenger Tariffs of the Klondike Mines Railway Company.

November 19, 1906.—Promulgation of regulations relating to the publication and filing of express tariffs.

November 19, 1906.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1905, on joint application of the said railway companies and exporters.

November 22, 1906.—Approval of Standard Passenger rates on certain new lines of the Canadian Pacific Railway Company in western Canada.

November 27, 1906.—Standard Passenger Tariff of the Canadian Pacific Railway Company's Guelph and Goderich branch at 3 cents per mile approved.

November 29, 1906.—Standard Passenger Tariff No. 19 of the Vancouver, Victoria and Eastern Railway Company, at 4 cents per mile, approved.

December 5, 1906.—Standard Freight Tariff of the Brandon, Saskatchewan and Hudson Bay Railway Company approved.

December 5, 1906.—Standard Passenger Tariff of the Canadian Northern Ontario Railway Company, at 3 cents per mile, approved.

December 5, 1906.—Standard Passenger Tariff of the Brandon, Saskatchewan and Hudson Bay Railway Company, at 3 cents per mile, approved.

December 6, 1906.—Promulgation of regulations relating to the publication and filing of tariffs of telephone tolls.

December 19, 1906.—Standard Passenger rates on Lacombe and Wetaskiwin branches of Canadian Pacific Railway, at 3½ cents per mile, approved.

December 26, 1906.—Standard Passenger Tariff of Canadian Pacific Railway Company's Nicola, B.C., branch, at 4 cents per mile, approved.

December 26, 1906.—Standard Freight Tariff of the Canadian Pacific Railway Company's Nicola, B.C., branch, approved.

January 9, 1907.—Standard Passenger Tariff of the Canadian Northern Railway Company's Ridgeville section, in Manitoba, at 3 cents per mile, approved.

January 9, 1907.—Standard Passenger Tariff of the Qu'Appelle, Long Lake and Saskatchewan Railroad and S.S. Company between Regina and Prince Albert, Sask., at 3½ cents per mile, approved.

January 9, 1907.—Standard Passenger fares of the Morinville branch and Stony Plains section of the Canadian Northern Railway Company, at 3½ cents per mile, approved.

February 4, 1907.—Standard Freight Tariff of the Vancouver and Lulu Island Railway, operated by the British Electric Railway Company as agents for the Canadian Pacific Railway Company, approved.

February 8, 1907.—Standard Passenger Tariff of the Canadian Pacific Railway Company between Curzon Junction, B.C., and Kingsgate, B.C., at 4 cents per mile, approved.

February 14, 1907.—Standard Passenger Tariff of the Bedlington and Nelson Railway Company, between British Columbia points, at 4 cents per mile, approved.

February 15, 1907.—Grand Trunk and Canadian Pacific Railway Companies authorized, under certain conditions, to refund to exporters of cheese the tolls collected for cartage to the Montreal wharfs during the season of navigation, 1906, on joint application of the said railway companies and exporters.

March 13, 1907.—Reduced rate prescribed on logs, in carloads, from Brule Lake, Ont., to Renfrew, Ont.

March 18, 1907.—Canadian Pacific and Grand Trunk Railway Companies ordered to reduce their passenger rates on all their lines in Canada, east of and including the

7-8 EDWARD VII., A. 1908

line of the Calgary and Edmonton Railway Company, to a maximum basis of 3 cents per mile.

Numerous changes to the advantage of the public have been made from time to time in the Canadian Freight Classification; a number of complaints have been adjusted informally by the Board, and others have been amicably arranged between the parties at the suggestion of the Board, or with its assistance.

I have the honour to be, sir,
Your obedient servant,

J. HARDWELL,
Chief Traffic Officer.

A. D. CARTWRIGHT, Esq.,
Secretary, Board of Railway Commissioners for Canada.
Ottawa.

APPENDIX C.

LIST OF APPLICATIONS HEARD AT PUBLIC SITTINGS
OF THE BOARD COVERING THE PERIOD FROM
APRIL 1, 1906, TO MARCH 31, 1907.

APPENDIX C.**LIST OF APPLICATIONS HEARD AT PUBLIC SITTINGS OF THE BOARD COVERING THE PERIOD FROM APRIL 1, 1906, TO MARCH 31, 1907.**

354. Application of the Grand Trunk Railway Company of Canada, under section 178 of the Railway Act, 1903, for an order directing the adoption and use at the present crossing at grade of the Grand Trunk by the line of the Canadian Pacific, in the township of Yarmouth, Elgin county, Ontario, of an interlocking and derailing plant, the cost of installing and maintaining same to be borne by the Canadian Pacific Railway, in accordance with the terms of agreement dated September 3, 1881.

355. Application of the Canadian Pacific Railway Company, as lessee of the Montreal and Ottawa Railway Company, under section 175 of the Railway Act, 1903, for leave to construct a branch line from a point on the main line of the Montreal and Ottawa Railway on the east side of Ann street to a point on the south side of Laurier avenue, in the city of Ottawa.

356. Application of the Canadian Pacific Railway Company, as lessee of the Montreal and Ottawa Railway, under section 186 of the Railway Act, 1903, for leave to construct a branch line along a portion of Nicholas street, in the city of Ottawa.

357. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for an order varying or amending the order of the board dated September 13, 1905, granting permission to the Canadian Northern Railway Company to cross the tracks of the Canadian Pacific Railway Company, Arcola branch, at Findlay, Man.

358. Application of the Midland Railway Company, of Manitoba, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Northern Railway Company near Carman, Manitoba.

359. Application of the Midland Railway Company, of Manitoba, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Northern Railway at Roland, Man.

360. Application of the Midland Railway Company, of Manitoba, under section 177 of the Railway Act, 1903, for leave to cross the Canadian Pacific Railway at Plum Coulee, Man.

361. Application of the Midland Railway Company, of Manitoba, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Pacific Railway at Elm Creek, Man.

362. Application of the Brandon, Saskatchewan and Hudson Bay Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Pacific Railway near Carroll, Man.

363. Application of the Klondike Mines Railway Company, under sections 122 and 123 of the Railway Act, 1903, for approval of the location of the company's line of railway between Grand Forks and Silver Springs, Yukon Territory.

364. Application of the Canadian Pacific Railway Company, as lessee of the Guelph and Goderich Railway Company, to the board under the Railway Act, 1903, for approval of plans of an undercross of Harbour street, in the town of Goderich.

365. Application of the Canadian Pacific Railway Company for an order amending orders of the Railway Committee of the Privy Council, dated November 11, A.D. 1902, and January 6, 1903, that the Toronto Railway Company bear and pay the increase in cost of erecting and operating the protective appliances at the crossing at Avenue road, due to the intervention of the said Toronto Railway Company at the

7-8 EDWARD VII., A. 1908

said crossing and the operating of its railway thereon, over and above the cost of erecting and operating the protective appliances formerly maintained at the said crossing under the order of the said Railway Committee of the Privy Council, dated January 8, 1891, prior to the advent of the Toronto Railway Company at said crossing.

366. Application of the Corporation of the City of Toronto, under the Railway Act, 1903, for an order amending order of November 16, 1904, granting leave to the Canadian Pacific Railway Company to take additional lands south of the Esplanade, in the city of Toronto.

367. Application of the Grand Trunk Railway Company of Canada, under sections 175, 177 and 186 of the Railway Act, 1903, for authority to construct and operate branch lines in the town of Toronto Junction, in the township of York, county of York, and province of Ontario, as shown on plan, profile, and book of reference filed with the Board.

368. Application of the Canadian Pacific Railway Company to construct a branch line, under section 175 of the Railway Act, 1903, connecting the Owen Sound section of the company with its Toronto Junction terminal yards.

369. Application of the Grand Trunk Railway Company of Canada, under section 184 of the Railway Act, 1903, for authority to construct two additional tracks across Dufferin street, in the city of Toronto, where the said street is crossed by the main line of the Grand Trunk Railway between Toronto and Hamilton.

370. Application of the Grand Trunk Railway Company of Canada, under section 175 of the Railway Act, 1903, for leave to construct a siding to the premises of the Polson Iron Works in the city of Toronto.

371. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for an order authorizing the railway company to construct a branch line to the property of the Polson Iron Works, in the city of Toronto.

372. Application of the Erie Realty Company, Limited, under section 176 of the Railway Act, 1903, for an order compelling the Grand Trunk Railway Company of Canada to construct and operate a branch line in the city of Toronto, as shown on plan filed.

373. Application of the Toronto and Hamilton Railway Company, under section 138 of the Railway Act, 1903, to take certain lands of the Grand Trunk Railway Company of Canada, at the village of Mimico, Ont.

374. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for authority to construct a branch line along Pacific avenue, in the city of Toronto.

375. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, to construct a branch line along Mowat avenue, in the city of Toronto.

376. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, to construct a branch line along Atlantic avenue, in the city of Toronto.

377. Application of the Toronto and Hamilton Railway Company, under section 177 of the Railway Act, 1903, for leave to carry its tracks or lines under the tracks of the Grand Trunk Railway Company of Canada (main line division), and the Canadian Pacific Railway Company, north of St. Clair avenue, Toronto Junction.

378. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Michigan Central Railroad at Montrose Junction, Ontario.

379. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to cross with its power wires the tracks of the Grand Trunk Railway Company of Canada (Welland division).

380. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Toronto, Hamilton and Buffalo Railway Company at Vinemount, county of Wentworth, Ont.

SESSIONAL PAPER No. 20c

381. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Toronto, Hamilton and Buffalo Railway at the Escarpment, Hamilton, in the county of Wentworth, Ontario.

382. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Grand Trunk Railway Company of Canada at Stony Creek, in the county of Wentworth, Ontario.

383. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Grand Trunk Railway Company west of Bronte, in the county of Wentworth, Ont.

384. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Canadian Pacific Railway Company at Lambton Park, in the county of York, Ont.

385. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Canadian Pacific Railway and the Grand Trunk Railway north of Toronto Junction, in the county of York, Ont.

386. Application of the Toronto and Niagara Power Company, under section 194 of the Railway Act, 1903, for leave to carry its power wires across the tracks of the Grand Trunk Railway Company on Davenport Road, Toronto, in the county of York, Ont.

387. Application of the Algoma Central and Hudson Bay Railway Company, under section 267 of the Railway Act, 1903, for a joint tariff with the Grand Trunk Railway Company by way of railway or boat lines, or partly one and partly the other, owned, operated or controlled by the Grand Trunk Railway Company of Canada.

388. Complaint of William Davies Company, Limited, to the Board that the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company have advanced their rate from Toronto to Montreal on packing house products in car-loads for export.

389. Application for siding running from the Canadian Pacific Railway through the industrial site of the Union Stock Yards Company, to be joined by the Grand Trunk Railway Company's siding on St. Clair avenue, as indicated on their plan.

390. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for approval of a deviation of a portion of the company's located line through the town of St. Paul, Quebec, as shown on plan dated the 7th September, 1904. The proposed deviation commences at a point opposite the southwestern side of St. George street, in the said town of St. Paul, and extends thence northeasterly across George street, to a point at or near the eastern side of Hadley street, in the said town.

391. Application of the Canadian Pacific Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Montreal street railway on St. Patrick street, Montreal, Quebec.

392. Complaint of the Corporation of the Town of Paris *re* subway under the tracks of the Grand Trunk Railway Company on Grand River street, in the town of Paris, Ont.

393. Complaint of the town of Strathroy regarding the crossings over the tracks of the Grand Trunk Railway Company in the town of Strathroy, Ont., at Caradoc street, Metcalfe street, Richmond and Victoria streets, and Oxford street.

394. Complaint of William Gray & Sons Company, Limited, *re* classification of carriages.

395. Application of the Grand Trunk Railway Company of Canada, under section 175 and 186 of the Railway Act, 1903, for leave to construct a branch line in the town of Walkerville, Ont., crossing Sandwich street to the premises of the Forde Motor Company.

396. Application of the Windsor, Essex and Lake Shore Rapid Railway Com-

7-8 EDWARD VII., A. 1908

pany, under section 177 of the Railway Act, 1903, for leave to cross at grade the tracks of the Père Marquette Railroad Company at Pelton station, in the county of Essex, Ont.

397. Application of the Windsor, Essex and Lake Shore Rapid Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Pacific Railway Company at a point on the gravel road in the township of Sandwich West, in the county of Essex, and province of Ontario.

398. Application of the Windsor, Essex and Lake Shore Rapid Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Père Marquette Railroad at a point near Kingsville station, in the county of Essex, Ont.

399. Application of the Canada Southern Railway Company, under sections 186 and 187 of the Railway Act, 1903, for authority to divert certain highways adjoining the said railway in the township of Sandwich West, as shown on plan on file with the Board.

400. Complaint of the Canadian Salt Company, Limited, of Windsor, Ontario, under the Railway Act, 1903, alleging excessive charge for switching loaded cars from the complainants' siding at Windsor to the Grand Trunk Railway at Walkerville, Ont.

401. Complaint of the Kerr Engine Company, of Walkerville, Ont., under the Railway Act, 1903, to the Board, alleging that with respect to the shipments of valves, hydrants, &c., the Grand Trunk Railway Company of Canada, the Canadian Pacific Railway Company, and the Père Marquette Railroad Company's freight rates from Walkerville to Canadian markets discriminate against the complainants in favour of their competitors in the United States.

402. Complaint of the Walkerville Brewing Company, of Walkerville, Ontario, *re* rates charged by the Canadian Pacific Railway Company for the transportation of beer.

403. Complaint of the Standard Paint and Varnish Company, Limited, of Windsor, Ontario, that the manufacturers of paint and varnish in the east enjoy much better freight rates on their goods going west than the Windsor plant does on similar goods going east.

404. Application of the Preston and Berlin Street Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Grand Trunk Railway at Caroline and Erb streets, in the town of Waterloo.

405. Application of the Toronto, Hamilton and Buffalo Railway Company, under section 184 of the Railway Act, 1903, for leave to carry its line of railway across the highway known as Garth street, in the city of Hamilton, Ont., at grade, as shown on plan filed with the board.

406. Application of the Grand Trunk Railway Company of Canada, under section 177 of the Railway Act, 1903, for approval of proposed connection of junction at Hamilton, Ontario, between the northern division of the Grand Trunk (16th district), and the main line of the Grand Trunk Railway (17th district), between Niagara Falls and Hamilton, and authorizing the said company to construct, maintain, and operate the said connection or junction.

407. Application of the city of Hamilton, under section 186 of the Railway Act, 1903, for leave to construct a highway across the main line of the Grand Trunk Railway Company of Canada on Ferguson avenue, in the said city of Hamilton.

408. Application of the city of Hamilton, under section 186 of the Railway Act, 1903, for leave to construct a foot-bridge across the main line of the Grand Trunk Railway Company of Canada at Emerald street, in the said city of Hamilton, at a height of not less than 22 feet 6 inches above rail level, the cost of such foot-bridge to be paid by the company and the city corporation, respectively, in such proportions as the Board may order.

409. Application of the Niagara, St. Catharines and Toronto Railway Company, under section 186 of the Railway Act, 1903, for leave to cross certain highways in the

SESSIONAL PAPER No. 20c

town of Thorold, and in the township of Thorold, with its line of railway, as shown on plan on file with the Board.

410. Application of Edward Scott Brennan, of the city of Hamilton, Ontario, under section 120 of the Railway Act, 1903, for an order directing the Grand Trunk Railway Company of Canada to compensate the applicant for damages sustained to his lands in the city of Hamilton.

411. Application of P. C. Patriarche, coal merchant, and the Burlington Canning Company, Limited, both of the village of Burlington, Ont., under sections 214 and 253 of the Railway Act, 1903, for an order directing the Grand Trunk Railway Company of Canada to provide proper facilities for receiving, forwarding, and delivering traffic offered for carriage in and out and to and from the said Burlington Canning Company and P. C. Patriarche by means of the Hamilton Radial Electric Railway.

412. Application of the Corporation of the City of Hamilton, under the Railway Act, 1903, for protection at Ferrie and Wellington street crossings where the said streets are crossed by the tracks of the Grand Trunk Railway Company of Canada.

413. Application of the Corporation of the City of St. Catharines, under section 23 of the Railway Act, 1903, for an order directing the Grand Trunk Railway Company of Canada, the Niagara, St. Catharines and Toronto Railway Company, and the Port Dalhousie, St. Catharines and Toronto Railway Company, to contribute to the said municipal corporation certain sums in connection with the erection of a bridge at Queenston street, in the city of St. Catharines; as set out in said application.

414. Application of the Grand Trunk Railway Company of Canada, under section 175 of the Railway Act, 1903, for leave to construct a branch line in the city of Hamilton, extending from a point on the Grand Trunk Railway west of McKinsty street, crossing Dickson street to J. Duff & Sons' packing house.

415. Complaint of Staunton's, Limited, of Toronto, Ontario, under the Railway Act, 1903, to the board, that the freight rates charged by the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, on wall paper shipped from Toronto east to points in the provinces of Ontario, Quebec, New Brunswick, and Nova Scotia, are excessive and discriminatory, in comparison with the rates in effect upon similar merchandise carried in the opposite direction, and asking that the Board disallow the present east-bound rates on complainants' goods and restore those in effect prior to November 15, 1905.

416. Application of the Canadian Pacific Railway Company (lessees of the Guelph and Goderich Railway), for a re-hearing of the application of the Corporation of the Township of Mornington, county of Perth, Ontario, for an order directing the Guelph and Goderich Railway Company to desist from building the proposed embankment on the line of its railway in concessions 4 and 5 of the township of Mornington, deviating the highway, as shown on plan on file with the Board under reference No. 16296, file No. 1030.

417. Application of Herbert J. Lackner, of the township of Wellesley, county of Waterloo, Ont., under sections 196 and 198 of the Railway Act, 1903, for an order directing the Guelph and Goderich Railway Company (Canadian Pacific Railway Company, lessees), to provide a sufficient outlet to an underground tile drain upon his farm in lot No. 6, concession 15, east section of the township of Wellesley, and to provide suitable farm crossings.

418. Application of the Canadian Pacific Railway Company, as lessees of the Guelph and Goderich Railway Company, under subsection 4 of section 25 of the Railway Act, 1903, for an order rescinding order of the board dated March 23, 1906, *in re* the application of Robert J. Cockerline, of the township of Morris, in the county of Welland, Ont., for a suitable farm crossing.

419. Application of the Toronto Board of Trade under the Railway Act, 1903, for reduction of freight rates and a general revision of merchandise rates in the province of Ontario.

420. Application of the Canada Atlantic Railway Company, under section 139

7-8 EDWARD VII., A. 1908

of the Railway Act, 1903, for authority to take certain additional lands in the city of Ottawa, county of Carleton, as shown on plan on file with the Board, for the convenient accommodation of the public and the traffic of the said railway.

421. Application of Prosper Labelle, Mayor of the parish of St. Canute, Que., for an order, under sections 204 and 214 of the Railway Act, 1903, directing the Great Northern Railway Company of Canada to furnish certain station and train facilities at St. Canute.

422. Application of the Grand Trunk Pacific Railway Company for an order, under section 177 of the Railway Act, 1903, authorizing the company to cross the tracks of the Canadian Pacific Railway Company on James street, near Pacific street, west of Fort William.

423. Application of the Grand Trunk Pacific Railway Company for an order, under section 177 of the Railway Act, 1903, authorizing the company to cross the tracks of the Canadian Northern Railway Company on James street, near Pacific street, west of Fort William, Ont.

424. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for an order approving of the plan of proposed changes in the interlocking plant where the Canadian Northern Railway Company's tracks cross the tracks of the applicant company at West Fort William.

425. Application of the Canada Atlantic Railway Company, under the Railway Act, 1903, for an order amending and varying the order of the Board dated September 4, 1905, respecting the construction by the applicant company of a subway on Bank street, in the city of Ottawa, by ordering or directing the corporation of the city of Ottawa and the Ottawa Electric Railway Company, respectively, to pay to the applicant company, from time to time, upon monthly estimates, as the construction of the said subway is proceeded with, the proportion of the cost of the said work which, by the terms of the said order, the said railway companies were respectively ordered to contribute.

426. Application of the Canadian Pacific Railway Company to vary an order of the Board, dated October 11, 1904, by transferring to the Canadian Pacific Railway Company, as lessees of the British Columbia Southern Railway Company, the charge of the crossing near Fernie, B.C., where the line of the said British Columbia Southern Railway Company is crossed by the line of the Morrissey, Fernie and Michel Railway Company, said crossing being now in charge of the Morrissey, Fernie and Michel Railway Company.

427. Application of the Waterous Wire and Nail Works, of Brantford, Ont., under the Railway Act, 1903, alleging discrimination against the Canadian Pacific Railway Company and the Grand Trunk Railway Company of Canada, in that there is a lower rate from Montreal to Winnipeg, via the boat lines to Fort William, than is in effect from Brantford, Ont., via the part rail and water route.

428. (a) Application of the Great Northern Railway Company of Canada, under the Railway Act, 1903, to the board for a recommendation to the Governor in Council for the sanction of an agreement amalgamating the Great Northern Railway Company of Canada and the Quebec, New Brunswick and Nova Scotia Railway, (b) Application of the Great Northern Railway Company of Canada, under the Railway Act, 1903, to the board for a recommendation to the Governor in Council for the sanction of an agreement amalgamating the Great Northern Railway Company of Canada and Chateaugay and Northern Railway Company.

429. Application of the Toronto and York Radial Railway Company, under section 177 of the Railway Act, 1903, for leave to cross by an overhead bridge the lines of the Grand Trunk Railway Company immediately north of Kingston Road, on lot 15, concession D, township of Scarboro, in the county of York, Ont., as shown on plan filed with the Board.

430. Application of the Grand Trunk Railway Company of Canada, under section 139 of the Railway Act, 1903, to take certain lands in the township of Tay, county of Simcoe, province of Ontario, for the purposes of the company.

SESSIONAL PAPER No. 20c

431. Application of the Napierville Junction Railway Company, under section 177 of the Railway Act, 1903, for leave to cross at grade the tracks of the Grand Trunk Railway Company of Canada, in the village of Lacolle, province of Quebec.

432. Application of the James Bay Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Pacific Railway Company near Wahnipitae station, township of Neelon, district of Nipissing, Ont.

433. Application of the Brandon, Saskatchewan and Hudson Bay Railway Company, under section 194 of the Railway Act, 1903, for leave to cross the tracks of the Canadian Pacific Railway Company with telegraph wires at the town of Boissevain, Man.

434. Application of the Brandon, Saskatchewan and Hudson Bay Railway Company, under section 194 of the Railway Act, 1903, for leave to carry its telegraph wires over the tracks of the Canadian Northern Railway Company at Minto, Man.

435. An application of the Midland Railway Company of Manitoba, under section 194 of the Railway Act, 1903, to carry its telegraph wires over the tracks of the Canadian Pacific Railway Company at Plum Coulee, Man.

436. Application of the Midland Railway Company of Manitoba, under section 194 of the Railway Act, 1903 for leave to carry its telegraph wires over the tracks of the Canadian Pacific Railway Company at Elm Creek, Man.

437. Application of the Midland Railway Company of Manitoba, under section 194 of the Railway Act, 1903, for leave to carry its telegraph wires over the tracks of the Canadian Northern Railway Company at Roland, Man.

438. Application of the Midland Railway Company of Manitoba, under section 194 of the Railway Act, 1903, for leave to carry its telegraph wires over the tracks of the Canadian Northern Railway Company at Carman, Man.

439. Application of the St. John Railway Company, under section 177 of the Railway Act, 1903, for leave to cross with its tracks the tracks of the Canadian Pacific Railway Company at Fairville, in the parish of Lancaster, in the city and county of St. John, province of New Brunswick.

440. (a) Application of the Canada Atlantic Railway Company, under section 139 of the Railway Act, 1903, for leave to take certain additional lands belonging to the Ontario Planing Company, which lands are required for the purpose of the construction of a subway under the tracks of the applicant company on Bank street, in the city of Ottawa. (b) Application of the Canada Atlantic Railway Company, under section 139 of the Railway Act, 1903, for leave to take certain additional lands belonging to the estate of the late H. C. Monk, which lands are required for the purpose of the construction of the subway under the tracks of the Canada Atlantic on Bank street, in the city of Ottawa.

441. Application of the Canadian Pacific Railway Company, under section 118 of the Railway Act, 1903, for an order authorizing the construction of a drain through the west halves of lots Nos. S-1 and 2, in the 4th concession of the township of Kaladar, in the county of Addington, Ont., belonging to James Murphy and William Catherine and other lands thereto, for the purpose of conveying the water in a certain creek, known as 'Otter Creek,' from the railway of the applicants.

442. Application of the British Columbia Electric Railway Company for approval of tariff.

443. Complaint of the Board of Trade of Dawson, Yukon Territory, respecting rates on the White Pass and Yukon route from Skagway to Dawson.

444. Application for an order under section 186 of the Railway Act, 1903, directing the Canadian Pacific Railway Company to open a crossing on Fourth street in the town of High River.

445. Application of the town of Didsbury regarding the closing of a crossing.

446. Application of the town of Olds for a crossing.

447. Application *re* the crossing of streets in the town of Leduc.

448. Complaints of Associated Boards of Trade of Western Canada.

7-8 EDWARD VII., A. 1908

449. *Re* passenger rates.
450. *Re* entry of Canadian Pacific Railway into Edmonton.
451. *Re* facilities for vehicular traffic at Grand Trunk crossing, Clover Bar.
452. *Re* fire guards.
453. Statement by Alberta Farmers' Association.
454. *Re* agreement between Grand Trunk Railway Company and the city of Edmonton.
455. *Re* shipment of perishable freight.
456. Application of the Canadian Pacific Railway Company as leesses of the Columbia and Western Railway Company for an order varying or amending the order of the board of February 14, 1906, fixing the rate for inter-switching between the Red Mountain Railway and the Columbia and Western Railway's track at Rossland, and an order fixing reasonable tolls, &c.
457. Complaint against the Canadian Pacific Railway *re* shortage of cars, by the Kootenay Shingle Company of Salmo, B.C.
458. Application on behalf of the city of Calgary with reference to the opening of certain streets in the city of Calgary.
459. Application of the village of Claresholm for permission to put water pipes under the tracks of the Canadian Pacific Railway.
460. Didsbury, application of town of Didsbury *re* crossing Calgary and Edmonton.
461. Crossing at the town of Olds on the Calgary and Edmonton.
462. Crossing agreement between the city of Calgary and the Canadian Pacific Railway Company, in regard to subways and level crossings on several streets in the city of Calgary.
463. *Re* Union station at Regina.
464. *Re* spur line on Smith street, Regina.
465. Order that Albert street crossing be amended.
466. Complaint by Mr. Walter Simpson *re* distribution of cars.
467. Fire-guards—protection against fire.
468. Fencing on railroad property.
469. Width of farm crossing gates.
470. Cost of fire-guards.
471. Application, Grand Trunk Pacific Railway Company, for overhead crossing of Canadian Pacific Railway at Arrow river.
472. Brandon, Saskatchewan and Hudson Bay Railway, application to run on Pacific avenue, Brandon, and to lay tracks on certain streets.
473. Application of Canadian Northern Railway *re* spur line, Smith street, Regina.
474. Complaints of Winnipeg Board of Trade and Canadian Manufacturers Association *re* bills of lading (forms of), and flag stations (forms of release).
475. Plate glass release.
476. Resolution, board of trade *re* flag stations.
477. Transfer charges on freight from the Canadian Pacific Railway to the Canadian Northern Railway in Winnipeg, complaint of Canadian Manufacturers Association.
478. Bannantyne street spur.
479. Application of Canadian Northern Railway Company to expropriate land, T. D. Robinson.
480. T. D. Robinson, application for Canadian Northern Railway Company to connect with his siding.
481. W. J. Taylor, application of Canadian Northern Railway Company to expropriate his land.
482. Application of Midland Railway Company, of Manitoba, to cross Canadian Pacific Railway at Morden, Man.
483. Clifton avenue, Winnipeg, application of Midland Railway Company, of Manitoba, to cross Canadian Pacific Railway.

SESSIONAL PAPER No. 20c

484. Great West Development Company, application of Canadian Pacific Railway Company to build a spur.

485. Fleury street, St. Boniface; application *re* order.

486. Application of the Windsor, Essex and Lake Shore Rapid Railway Company for an order to rescind or vary order of the Board, dated May 25, 1906, granting leave, under section 177 of the Railway Act, 1903, to cross with its tracks the tracks of the Michigan Central Railroad Company at a point in the town of Essex, Ont.

487. Application of the Canadian Northern Ontario Railway Company, under subsection 4 of section 25, and under section 32 of the Railway Act, 1903, to vary or modify order of the Board, dated May 17, 1906, approving of location plans of the Central Railway Company of Canada through the counties of Laval and Two Mountains, Quebec, mileage 8 to mileage 34.4, Montreal West.

488. Application of the James Bay Railway Company, under section 123 of the Railway Act, 1903, for sanction and approval of the location of its line of railway through the county of Two Mountains, province of Quebec, mileage 19.6 to mileage 38 east from Hawkesbury.

489. Application of the Canadian Pacific Railway Company for an order to vary the order of the Railway Committee of the Privy Council, dated February 8, 1898, and of the Board of Railway Commissioners for Canada, dated July 27, 1905, directing that the entire cost of maintenance and operation of the diamonds, interlocking, derailing and signalling appliances at the Queen's Wharf crossing, in the city of Toronto, of the applicants' railway by the Grand Trunk Railway Company's lines, be apportioned as set forth in the application.

490. Application of the Canadian Pacific Railway Company for an order authorizing the installation of the necessary interlocking appliances to connect the east switch of its second track with its main line immediately west of the crossing of the Grand Trunk Railway (Toronto Belt Line Railway), on the Don improvement, in the city of Toronto, said works to be executed at the expense of the Grand Trunk Railway Company representing the Toronto Belt Line Railway Company.

491. Application of the Canadian Pacific Railway Company and the Canadian Northern Railway Company, under section 25 of the Railway Act, 1903, for an order varying or amending the order of the Board, dated August 7, 1906, made on the application of the Kaministiquia Power Company, Limited, under section 194 of the Railway Act, 1903, for leave to erect transmission wires having a maximum voltage between wire and earth of 15,000 volts, across the tracks of the Canadian Pacific and Canadian Northern Railway Companies at West Fort William, Ont.

492. Application of the Kaministiquia Power Company, Limited, of Fort William, Ont., under section 194 of the Railway Act, 1903, for authority to cross the lines of the Canadian Pacific Railway Company with 2,400 volt power lines.

493. Application of the Canadian Pacific Railway Company, under section 118 (M) of the Railway Act, 1903, for authority to make a drain through certain lands adjoining its line of railway, being the west halves of lots Nos. 1 and 2, 4th concession, township of Kaladar, county of Addington, Ont., belonging to James Murphy and William Caterin, and other lands adjacent thereto, for the purpose of conveying water in Otter creek from the railway of the applicants.

494. Application of the Canadian Northern Railway Company, under section 177 of the Railway Act, 1903, for authority to place its line or tracks across the lines or tracks of the Grand Trunk Railway Company of Canada at a point in the town of Hawkesbury, Ont.

495. Application of the Walkerton and Lucknow Railway Company, under section 177 of the Railway Act, 1903, for an order authorizing the construction and maintenance of a crossing of the Grand Trunk Railway, and also a crossing of a spur of the Grand Trunk Railway to the furniture factory; both these crossings being in the village of Hanover, the first crossing being at mile 28.3 of the Walkerton and Lucknow Railway.

7-8 EDWARD VII., A. 1908

496. Application of the Grand Trunk Railway Company of Canada for authority, under section 175 of the Railway Act, 1903, to construct a branch line to the premises of the Simonds Canada Saw Company, Limited; the Laing Biscuit and Confectionery Company, Limited, and Jenkins Brothers, St. Henri (now in the city of Montreal), Quebec.

497. Application of the Cumming Manufacturing Company, Limited, of Renfrew, Ontario, under the Railway Act, 1903, to the board for an order directing the Grand Trunk Railway Company of Canada to cease from charging excessive and discriminatory rates on logs from its stations east of Rainy lake, Ont., when consigned to the applicants at Renfrew.

498. Application of the Grand Trunk Railway Company, under section 139 of the Railway Act, 1903, for authority to take certain additional lands in the township of St. Laurent, Quebec, for the purpose of constructing the connecting track between the Grand Trunk Railway and the Montreal Park and Island Railway.

499. Application of the Grand Trunk Railway Company of Canada, under the Railway Act, 1903, for an order to amend or vary order of the Board, dated July 18, 1905, authorizing the Guelph and Goderich Railway to take certain lands of the Grand Trunk Railway in the town of Goderich, Ont.

500. An application of the Canadian Pacific Railway Company, under section 186 of the Railway Act, 1903, for permission to carry Nelson street, in the town of Sudbury, across its railway by means of an overhead bridge.

501. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for permission to temporarily deviate Wahnapiæ road, in the town of Sudbury, to Elizabeth street, for the purposes of enabling the construction of a proposed bridge at Nelson street.

502. Application of the Canadian Pacific Railway Company, under section 204 of the Railway Act, 1903, for approval of location of proposed passenger station in the town of Sudbury, Ont.

503. Application of the Canadian Pacific Railway Company, under section 130 of the Railway Act, 1903, for authority to construct, maintain and operate deviation of line through the town of Sudbury, Ontario.

504. Application of the Commissioners of the Transcontinental Railway, under section 177 of the Railway Act, 1903, for leave to cross the railway lines and tracks of the Great Northern Railway Company of Canada by and with the lines and tracks of the National Transcontinental Railway, at a point on the Great Northern Railway near Tawachiche station, Quebec, and to join the tracks of the said railway companies at such point.

505. *Re* protection of crossing of the tracks of the Grand Trunk Railway Company of Canada by the tracks of the Canadian Pacific Railway Company in the village of Lennoxville, Quebec, and of the agreement of May 20, 1887, made between the Grand Trunk Railway Company of Canada and the International Railway Company (adjourned from the 10th April, 1906). Argument.

506. Application of the town of Steelton, Ont., for an order, under section 186 of the Railway Act, 1903, directing the Canadian Pacific Railway to establish a suitable highway crossing at Huron street, in the town of Steelton.

507. Application of the Canadian Pacific Railway Company, as lessee of the Tillsonburg, Lake Erie and Pacific Railway Company for an order to amend order of the Railway Committee of the Privy Council, dated December 16, 1902, to provide that, in the operation of the interlocking, derailing and signalling system at the Grand Trunk Crossing with the Tillsonburg, Lake Erie and Pacific Railway at Tillsonburg, the normal position of the interlocking signals shall be against the trains of both companies.

508. Application of the Grand Trunk Railway Company, under the Railway Act, 1903, for authority to construct, maintain and operate a branch line or siding from a point on the Grand Trunk Railway Company's tracks on Bethune street, near Rink street, in the city of Peterborough; thence easterly along Bethune street and crossing

SESSIONAL PAPER No. 20c

Rink street to a point opposite the Peterborough Fuel and Cartage Company's premises.

509. Application of the Canadian Pacific Railway Company, under section 178 of the Railway Act, 1903, for an order requiring the Canadian Northern Railway Company to erect, maintain and operate an interlocking plant and signalling appliances at the intersection of the Canadian Northern with the Canadian Pacific Railway at Fort Whyte, Man.

510. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch or spur line commencing at a point on the Brockville Loop Line of the Canadian Pacific Railway at the west side of Buell's creek; thence in a westerly direction across the properties of the Burrill Manufacturing Company, Henry street; the Central Canada Coal Company; James Smart Company, Kincaid street, and into the property of the James Smart Manufacturing Company, a distance in all of about 850 feet.

511. Application of the Canadian Pacific Railway Company, under section 177 of the Railway Act, 1903, for authority to cross the tracks of the Canadian Northern Railway Company's spur to Bird's Hill ballast pit, in section 16, township 11, range 4, east of the principal meridian.

512. Application of the Canadian Pacific Railway Company, under section 178 of the Railway Act, 1903, for an order requiring the Canadian Northern Railway Company to erect, construct and maintain an interlocking plant and signalling appliances at the intersection of the Canadian Northern with the Canadian Pacific Railway at Headingly, Man.

513. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, for approval of crossing over the Canadian Pacific Railway Company's spur line to Brunette mills, at or near New Westminster, B.C.

514. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, for approval of crossing over and junction with the tracks of the Canadian Pacific Railway Company's spur line to Fraser River mills, at Millside, B.C.

515. Application of the Municipal Council of the Corporation of the City of Woodstock, Ontario, under sections 186 and 187 of the Railway Act, 1903, for an order directing the Grand Trunk Railway Company to provide a watchman or gates where the company's railway crosses Wilson street; to provide electric bells at Norwich avenue and at Peel street, where the company's railway intersects the said avenue and street, and to provide a watchman at Dundas street where the company's railway intersects the said street, all in the city of Woodstock, Ont.

516. Application of Elbert M. Kelly, of the township of East Oxford, in the county of Oxford, Ontario, under section 198 of the Railway Act, 1903, for an order directing the Grand Trunk Railway Company to provide and construct a suitable farm crossing where the Grand Trunk Railway intersects the applicant's farm in lot No. 4, concession 1, township of East Oxford.

517. Application of the Corporation of the City of Toronto, under section 186 of the Railway Act, 1903, permitting the said corporation to construct a high level bridge across the Don improvement and the tracks of the Canadian Pacific and Grand Trunk Railway Companies crossing King street (or Queen street) east, in the city of Toronto, and for an order determining the proportion to be borne by the said railways and other parties interested of the costs and expenses incident to the construction and maintenance of said bridge, including damages to any property which may be injuriously affected thereby.

518. Application of the Canadian Pacific Railway Company, as lessee of the Guelph and Goderich Railway Company, under section 177 of the Railway Act, 1903, for leave to construct a level crossing over the spur track of the Grand Trunk Railway leading to Goldie's mill, in the city of Guelph, Ont.

519. Application of the Canadian Pacific Railway Company, under section 177 of the Railway Act, 1903, for an order authorizing the crossing with its tracks of the

7-8 EDWARD VII., A. 1908

tracks of the Qu'Appelle, Long Lake and Saskatchewan Railroad and Steamboat Company, at Saskatoon, Saskatchewan, and also for authority to construct, maintain and operate such crossing.

520. Application of the Canadian Pacific Railway Company, as lessee of the Ontario and Quebec Railway Company, under section 177 of the Railway Act, 1903, for an order granting leave to cross Wickett & Craig's siding and Morse's siding of the Toronto Belt Line Company (operated by the Grand Trunk Railway) by a siding or spur to the William Davies Company factory in the First ward of the city of Toronto, construction of which was authorized by an order of the Board, dated November 8, 1905; also for authority to connect with the Davies shipping siding of said Belt Line Company in said ward by another siding, the construction of which was also authorized by said order of November 8, 1905.

521. Application of the Canadian Pacific Railway Company, as lessee of the Ontario and Quebec Railway Company, with which the Credit Valley Railway has been amalgamated, for an order that the crossing of its line of railway by the line of the Grand Trunk, in the town of Milton, Ontario, be protected by interlocking, derailling and signalling system, according to plan and profile submitted, and that the applicants be authorized to install such system and make all necessary connections and alterations, one-half of the expense incurred to be paid by the Grand Trunk Railway, and that the said crossing and appliances, with interlocking plant, be operated and maintained by that company, one-half the expense to be paid by the applicants to the Grand Trunk Railway Company.

522. Application of the Grand Trunk Railway Company for leave to appeal to the Supreme Court of Canada from the judgment of the Board, delivered and dated June 20, 1906, in the matter of the application of the James Bay Railway Company, dated February 22, 1906, for an order granting leave to lay its lines and tracks across the lines and tracks of the Grand Trunk Railway across lot 13, concession 2, from the bay, in the township of York, county of York. Argument.

523. Application of the Canadian Northern Ontario Railway Company, under section 186 of the Railway Act, 1903, for authority to place tracks across Olive, Vine and Water streets, between Eastern avenue and Front street, in the city of Toronto, Ont. (by consent).

524. Application of the Canadian Northern Ontario Railway Company, under section 186 of the Railway Act, for approval of the location of its line along and across Don Esplanade, between Queen and Eastern avenue, and across Eastern avenue, west of Cypress street, in the city of Toronto, Ontario (by consent).

525. Application of the Canadian Pacific Railway Company as lessee of the Toronto, Grey and Bruce Railway Company, under section 175 of the Railway Act, 1903, for an order to construct, maintain and operate a branch line of railway with three spurs running westerly from same; said branch line commencing at a joint on the main line of the applicants' railway about 450 feet southwesterly from the southwestern side of the present road allowance between lots 21 and 22 of the Bay Shore range of park lots in the town of Owen Sound, Ont., and running from thence in a northeasterly and northerly direction across the said road allowance and through the property of the Carney Lumber Company, comprising lots 22 and 23 of the said range.

526. Application of the Owen Sound and Meaford Railway Company, under section 123 of the Railway Act, 1903, for approval of the location of its line of railway through the town of Owen Sound, Ont., and part of the township of Sydenham, Ont.

527. Application of the Canadian Pacific Railway Company (lessee of the Toronto, Grey and Bruce Railway Company) under section 86 of the Railway Act, 1903, for an order to alter the location of the track at the northeastern end of Bay street, in the town of Owen Sound; also to lay two additional tracks across the street between lots 15 and 16 of the Bay shore range; to lay five additional tracks across the street known as Pickering's crossing; to lay five additional tracks across a roadway between lots 8 and 9 of the Bay Shore range; to lay two additional tracks across land set apart for a street not now opened on the southwestern side of lot No. 1, in said Bay Shore

SESSIONAL PAPER No. 20c

Range; also to change the location of its most easterly track crossing Connell street, all in the town of Owen Sound, Ont.

528. Application of the Owen Sound and Meaford Railway Company, under section 177 of the Railway Act, 1903, for authority to cross the tracks of the Canadian Pacific Railway Company at River street, and on a street between lots 12 and 13, [Bay Shore Range, in the town of Owen Sound, Ont.

529. Application of the Vancouver, Westminster and Yukon Railway Company for an order, under section 177 of the Railway Act, 1903, approving of the place and mode of crossing over and junction with the tracks of the Canadian Pacific Railway Company's spur line to Fraser River Mills, at Millside, New Westminster. B.C.

530. Application of the Vancouver, Westminster and Yukon Railway Company for an order, under section 177 of the Railway Act, 1903, approving of the place and mode of crossing over the tracks of the Canadian Pacific Railway Company's spur line to Brunette mills at or near New Westminster, B.C.

533. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, approving of the place and mode of crossing by the line of the applicant company from False Creek to Burrard Inlet of the tracks of the Canadian Pacific Railway near Burrard Inlet, at Vancouver, B.C.

532. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, for an order approving of the place and mode of crossing over the tracks of the British Columbia Electric Railway Company, Limited, at Powell street, in the city of Vancouver, B.C.

533. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, for an order approving of the place and mode of crossing over the tracks of the British Columbia, Limited (New Westminster line), at Venables street, in the city of Vancouver, B.C.

533. Application of the Vancouver, Westminster and Yukon Railway Company, under section 177 of the Railway Act, 1903, for an order approving of the place and mode of crossing over the tracks of the British Columbia Electric Railway Company, Limited, at Harris street, in the city of Vancouver, B.C.

535. Application of the Grand Trunk Railway Company, under sections 175 and 186 of the Railway Act, 1903, for authority to construct a branch line from a point on the main line east of the Port Hope viaduct to a point on the northern division of the Grand Trunk Railway Company's line north of Ontario street, in the town of Port Hope, crossing in its route Peter street, Base Line, Mill street, Ontario street and Barrett street.

536. Application of the Grand Trunk Railway Company, under sections 175 and 186 of the Railway Act, 1903, for authority to construct a branch line or siding extending from a point on its railway east of St. Leger street, in the town of Berlin, Ontario; thence westerly crossing St. Leger street to the premises of the Pommer & Cowan Manufacturing Company.

537. Application of the Grand Trunk Railway Company, under sections 175 and 186 of the Railway Act, 1903, for authority to construct certain branch lines or sidings, and spurs therefrom, extending from points on the applicants company's railway between Carlaw avenue and Logan avenue, in the city of Toronto; thence upon, along, and across Thackeray street, Dickens street, and Carlaw avenue, Toronto, for the accommodation of various manufacturing and other industries.

538. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for an order rescinding the orders of the Railway Committee of the Privy Council, dated November 22, 1892, and May 10, 1893, allowing the Davenport Street Railway Company to cross the applicant's railway, at rail level, on St. Clair avenue, between Keele street and Weston road, in the town of (West) Toronto Junction, subject to the provision and maintenance by the Street Railway Company of sufficient gates at the said crossing upon the ground that the said Davenport Street Railway Company and its successors the Toronto Suburban Railway Company have for a long

7-8 EDWARD VII., A. 1908

time neglected and refused to provide or maintain gates at the said crossing, as required by the said orders.

539. Application of the Canadian Pacific Railway Company, for a reconsideration of the order of the Board, dated June 29, 1906 (issued October 23, 1906), whereby the James Bay Railway Company was authorized to place its lines or tracks across the lines or tracks of the Canadian Pacific Railway (Toronto-Sudbury branch), on lot 12, concession 2, township of Cleland, district of Nipissing, province of Ontario.

540. Application of the Grand Trunk Railway Company of Canada, under sections 175, 177 and 186 of the Railway Act, 1903, for authority to construct and operate branch line in the town of Toronto Junction, in the township of York, county of York, and Province of Ontario, as shown on plan, profile, and book of reference filed with the Board.

541. Application of the Union Stock Yards Company, under sections 175, 177 and other sections of the Railway Act, 1903, applicable thereto, to the Board for authority to construct and operate a branch line or siding from the line of the Canadian Pacific Railway, in the town of Toronto Junction, province of Ontario.

542. Application of the Grand Trunk Railway Company, under the Railway Act, 1903, for authority to construct, maintain and operate certain branch lines or spurs from a point on its railway at about the foot of Fraser avenue, Toronto; thence extending northerly and along Mowat avenue to reach the establishment of the Toronto Carpet Company and the Malta Vitæ Food Company, as well as the property of the city of Toronto, on the westerly side of Mowat avenue.

543. Application of the Township of Saltfleet to have the location of the Toronto and Hamilton Railway Company, sanctioned by orders of the Board of July 4, 1905, and January 9, 1906, changed.

544. Application of the Toronto, Hamilton and Buffalo Railway Company, under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch line of railway or spur, in the city of Hamilton, township of Barton, county of Wentworth and province of Ontario, commencing at a point on the Belt Line Railway of the Toronto, Hamilton and Buffalo Railway Company, in lot No. 5, in the 1st concession of the said township of Barton, and extending from said point in a northwesterly direction for a total distance of about 6,524.6 feet into the premises of the Canadian Westinghouse Manufacturing Company, Limited.

545. Application of the Toronto and Niagara Power Company, under the Railway Act, 1903, for leave to cross the Grand Trunk Railway Company's tracks with transmission wires at Water street, Burlington village, and at the conventional line near Burlington Beach, Ontario.

546. Application of the Hamilton, Waterloo and Guelph Railway Company, under sections 122 and 123 of the Railway Act, 1903, for approval of the location of its line from Hamilton to Guelph, Galt and Berlin, via Dundurn and Harvey Parks.

547. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for reconsideration of the order of the Board, dated June 29, A.D. 1906 (issued October 23, 1906), whereby the James Bay Railway Company was authorized to place its lines or tracks across the lines or tracks of the Canadian Pacific Railway Company (Toronto-Sudbury line), on lot 12, concession 2, township of Cleland, district of Nipissing, and province of Ontario.

548. Application of the United Townships of Medora and Wood to vary or rescind order of the Board No. 1707, dated September 24, 1906, in reference to the crossing by the Canadian Pacific Railway Company of a certain road known as 'Colonization Road,' in the townships of Medora and Wood.

549. Application of the Canadian Pacific Railway Company, under sections 25 and 33, of the Railway Act, 1903, for an order rescinding or varying an order of the Railway Committee of the Privy Council, dated May 13, 1898, whereby the applicants were ordered to leave an opening of 63 feet in the trestle bridge carrying the branch line of its railway to Dickson's mills, in the town of Peterborough, across the channel

SESSIONAL PAPER No. 20c

of the Otonabee river, by permitting the applicants to fill the said opening and substitute for the said trestle a solid embankment.

550. Application of the Montreal Produce Merchants' Association for directions to the Grand Trunk and Canadian Pacific Railway Companies to make refund provided for by order of the Board, dated November 19, 1906, applicable to business originating south and east of Montreal, and to order a refund of amounts charged at Montreal for cartage on cheese for export for the year 1906, with respect to export business for the year 1905.

551. Application Montreal Produce Merchants' Association for direction to the Grand Trunk and Canadian Pacific Railway Companies to reduce their winter export rates on butter and cheese from Montreal to Portland and West St. John.

552. Application of the Grand Trunk Pacific Railway Company, under section 123 of the Railway Act, 1903, for approval of the location of its line through the town of Fort William, Ont.

553. Application of the Père Marquette Railroad Company for an order, under sections 175 and 177 of the Railway Act, 1903, authorizing the Père Marquette Railroad Company to construct a branch line or siding through Dufferin Park and over the top of the St. Clair Tunnel to the premises of the Imperial Oil Company, Sarnia, Ont.

554. Application of the municipal corporation of the city of Ottawa for an order, under sections 186 and 187 of the Railway Act, 1903, directing the Ottawa Electric Railway, the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company to submit a plan and profile for the purposes of widening the bridge and approaches thereto constructed by them on Somerset street, in the city of Ottawa, being a public highway in the said city.

555. Application of the Canadian Pacific Railway Company, under the Railway Act, 1903, for an order, under the provisions of certain leases from the Crown to the Ottawa, Arnprior and Parry Sound Railway Company, dated respectively June 6, 1895, July 31, 1895, and March 2, 1896 (the said Ottawa, Arnprior and Parry Sound Railway Company being subsequently owned and operated by the Canada Atlantic Railway Company, and now owned and operated by the Grand Trunk Railway Company of Canada), fixing the terms and conditions which it may use for railway purposes (jointly with all parties entitled to use the same), the passenger station and passenger tracks and approaches in connection therewith, situated on ordnance lands of the Crown, portions of the Rideau Canal reserve, extending from Sappers' bridge southward to the Hurdman bridge road, in the city of Ottawa.

556. Application of the Ottawa Electric Railway Company, under section 177 of the Railway Act, 1903, for leave to cross with its tracks by means of an overhead bridge at Bell street, in the city of Ottawa, the tracks of the Canada Atlantic Railway Company.

557. (1) To settle upon a system of operating rules for the various railways subject to the jurisdiction of the board;

(2) Petition of the Railway Trainmen of Ontario, dated April 20, A.D. 1906 ;

(3) Discussion of the following subjects as set forth in circular letter of January 2, 1907:—

1. Railway accidents and precautions for preventing same.
2. Provisions for cleanliness, ventilation and health at passenger stations.
3. Supply of equipment and adoption of methods to insure more prompt and efficient service on railways.
4. Car supply for traffic originating on short local lines for carriage for long distances over other lines.
5. Mechanical appliances and fire-guards for preventing the setting or spreading of fires from locomotive engines, especially on the prairies.
6. Equipment of cars carrying lumber and similar commodities and rules regulating the same.

7-8 EDWARD VII., A. 1908

7. Width of gates and planking at farm crossings.
8. Forms of orders for railway crossings.
9. Supply of ice at convenient points for the icing of refrigerator cars for shipment, and provision for re-icing the same in transit for export to the western provinces.
10. Compliance with section 216 requiring the wearing of badges by railway officials.
11. More careful compliance with section 231 of the Railway Act, respecting notices of delayed trains.
12. Compliance with section 215 of the Railway Act, requiring trains to be run according to schedule time.
13. Such other subjects connected with the management and operation of railways as it may then appear to those skilled therein desirable to discuss before the Board.

558. Application of the Commissioners of the Trans-continental Railway for an order, under section 177 of the Railway Act, 1903, granting leave to the applicants to cross the railway lines and tracks of the Canadian Pacific Railway Company (Quebec and Montreal Branch), by and with the lines and tracks of the National Transcontinental Railway by excavating under the lines and tracks of the said Canadian Pacific Railway and constructing a subway thereunder at a point on the said railway near St. Basile, in the county of Portneuf, in the province of Quebec, and rescinding order of the Board No. 1379, dated August 10, 1906.

559. Application of the Vancouver, Victoria and Eastern Railway and Navigation Company to the Board for an order under section 130 of the Railway Act, 1903, for approval of amended location of its line of railway over lots 1969, 1970 and 1971, group 1, being unapproved portion of amended location of part of Similkameen section as approved by order of the Board, dated August 9, 1906.

560. Application of the Grand Trunk Railway Company, under section 178 of the Railway Act, for authority to expropriate certain lands, lots 474 and 475, estate of the late Honourable C. S. Rodier, St. Joseph's Ward, Montreal.

561. Application of the township of Hope, under the Railway Act, 1903, for an order rescinding or amending order of the Board, dated April 20, 1906, in *re* application of the Grand Trunk Railway Company of Canada for proposed diversion of the Lake Shore road, in the township of Hope, Ont.

562. Application of the Essex Terminal Railway Company, under section 177 of the Railway Act, 1903, for authority to construct its railway across the tracks of the Windsor, Essex and Lake Shore Railway Company, now constructed on the Gravel road, in the township of Sandwich West, county of Essex, province of Ontario.

563. Application of the Canadian Northern Ontario Railway Company, for leave to join the lines or tracks of the Canadian Northern Ontario Railway with the lines or tracks of the Grand Trunk Railway Company at Falding, in the township of Foley, district of Parry Sound, 7 miles south from Parry Sound.

564. Application of the James Bay Railway Company (Canadian Northern Ontario Railway Company), under section 177 of the Railway Act, 1903, for authority to place its lines or tracks under the lines or tracks of the Canadian Pacific Railway Company at Little Key river, in the township of Mowat, district of Parry Sound, Ont.

565. Application of the Grand Trunk Railway Company of Canada for an order amending the order of the Board, dated November 23, 1905, ordering the Grand Trunk Railway Company to place and maintain two flagmen at the intersection of College street, by the tracks of the Grand Trunk and the Boston and Maine Railway, in the village of Lennoxville, Que., by re-apportioning the cost so that the same shall be borne equally by the Canadian Pacific, the Boston and Maine, the village of Lennoxville, and the Grand Trunk, instead of one-half by the Grand Trunk, one-quarter by the Boston and Maine and one-quarter by the village of Lennoxville, as set out in said order.

566. Application of the St. John Railway Company, under section 177 of the

SESSIONAL PAPER No. 20c

Railway Act, 1903, for authority to cross with its tracks the railway lines or tracks of the Canadian Pacific Railway Company in the city of St. John, province of New Brunswick, on Rodney wharf (so-called) and on Union street; also for an order under section 194 of the Act, permitting the St. John Railway Company to place and maintain wires for the conveyance of electricity and electrical power across the Canadian Pacific Railway at the points specified.

567. Application of the Montreal Street Railway Company, under section 177 of the Railway Act, 1903, for leave to cross the railway tracks of the Canadian Pacific Railway Company at the point where the said tracks of the Canadian Pacific Railway Company intersect Papineau avenue, in the city of Montreal, in the municipality of Delorimier, province of Quebec.

568. Application of the Canadian Pacific Railway Company, under section 175 of the Railway Act, 1903, for authority to construct, maintain and operate a branch line of railway or spur in the city of Calgary, commencing at a point on its said centre line from the western boundary of Fourth street west, in the said city, and thence in a southeasterly and easterly direction across Tenth avenue and Sixth street west, to and along the lane between said Tenth avenue and Eleventh avenue to the western side of First street west, in the said city.

APPENDIX D.

SUMMARY OF THE PRINCIPAL JUDGMENTS DELIVERED
BY THE BOARD FROM APRIL 1, 1906,
TO MARCH 31, 1907.

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SUMMARY OF THE PRINCIPAL JUDGMENTS DELIVERED BY THE BOARD FROM APRIL 1, 1906, TO MARCH 31, 1907.

Walker et al. v. The Toronto and Niagara Power Company.

Two applications were made to the board, one by John H. Walker and William Tuck, the other by James W. Alway, for an order rescinding an order of the board authorizing a deviation from the located power line of the Toronto and Niagara Power Company, previously approved by the board.

By order dated March 29, 1904, the board approved the location of the line of the Toronto and Niagara Power Company from 3 to 38 miles from the Niagara river. This included the line across lots 7, 18 and 19, in the 3rd concession of the township of Grimsby. Each of the three applicants is the owner of one of these lots.

On April 15, 1905, the board authorized a deviation from the located line, as approved. This was the order sought to be rescinded. The new plans showed a different location, beginning at lot 15, in the 3rd concession of Grimsby, and extending across (among other lands) lots 17, 18 and 19, at an approximate distance on these three lots three-quarters of a mile from the previous location across them.

The applications to rescind the order of April 15, 1905, were based on the grounds that the Railway Act did not permit a double expropriation, and that the company was in reality not deviating from the original line sanctioned by the board, but was constructing an additional or branch line in connection with its original line.

Hearing at Toronto, November 7, 1905.

Judgment, April 12, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 190): Held (1) that the company's powers under its Act of incorporation (2 Edw. VII., Ch. 107, Dom.) were not exceeded by the construction of one line, as in the case of a company authorized to build between two termini or any specified number of lines.

(2) That the cases relating to deviations by railway companies do not apply.

(3) Without considering the jurisdiction of the board to make the orders respecting location plans, the applications must be refused.

The Algoma Central and Hudson Bay Railway Company v. Grand Trunk Railway Company.

This was an application by the Algoma Central and Hudson Bay Railway Company for an order, under sections 266 and 267 of the Railway Act, 1903, to compel the Grand Trunk Railway Company to enter into a joint tariff with it upon traffic partly over the Grand Trunk Railway and partly by a line of steamships of the applicant company.

The Algoma Central and Hudson Bay Railway Company operates a line of railway from Sault Ste. Marie northwesterly for about 70 miles, and also a line of railway from Michipicoten harbour, on Lake Superior, for a short distance. It uses and operates a fleet of steamers, passenger and freight, plying between Sault Ste. Marie and Michipicoten harbour, on the one hand, and points on Lake Huron and other inland waters reached by the Grand Trunk Railway on the other.

Section 276 of the Railway Act, as making the provisions of sections 266 and 267 extend to the traffic mentioned, relied upon.

Hearing at Toronto, April 17, 1906.

Judgment, April 26, 1906.

7-8 EDWARD VII., A. 1908

Killam, Chief Commissioner (5 Can. Ry. Cas., 196); sections 253 and 271 relate solely to railway traffic, and not to traffic between a line of railway and water line.

A line of steamships operated by a railway company running to ports reached by the line or lines of another company does not constitute therewith a continuous route within the meaning of sections 266 and 267 of the Railway Act, 1903.

Application dismissed.

The City and County of St. John v. The Canadian Pacific Railway Company.

Application by the Municipality of the City and County of St. John, New Brunswick, for an order under section 187 of the Railway Act, 1903, directing the Canadian Pacific Railway Company to construct and maintain suitable gates over a street in the village of Fairville, and one in the village of Milford, where the Canadian Pacific Railway crosses these streets.

Hearings at St. John, April 18; and Ottawa, November 22, 1905.

Judgment, June 5, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 161): The railway company was ordered to construct and maintain gates over the street crossing in Fairville and to install an electric bell at the crossing in Milford.

Held, that the board has jurisdiction, under section 47 of the Railway Act, 1903, to order the municipality to contribute to the expense of protecting its highway crossings, as in the case of municipalities in other provinces. *City of Toronto v. Grand Trunk Railway Company*, 37 S.C.R. 232, referred to.

By later order of the board, dated June 14, 1906, the cost of installing, operating, and maintaining the gates of the Fairville street crossing was directed to be borne by the railway company, the wages of the day and night watchman employed at this crossing to be paid one-half by the municipality and one-half by the railway company; the cost of installing, operating and maintaining an electric bell at the Milford crossing to be borne by the railway company.

Re Apportionment of Cost for Protection of Highway Crossings.

Judgment of Chief Commissioner in the Almonte street crossings' application (June 15, 1906) ' the usual practice of the Railway Committee of the Privy Council, which, before the constitution of the Board of Railway Commissioners, exercised jurisdiction respecting the protection of highway crossings, was to divide the cost of the protection of previously existing highway crossings by railways between the municipalities and the railway companies; that such has been the practice of this board, although it is recognized that no fixed rule can be laid down for determining whether the municipality should share the expense, or in what proportion it should do so. In a recent case, the jurisdiction of the Railway Committee to apportion such expense upon the municipality was upheld by the Supreme Court of Canada.'

Niagara, St. Catharines and Toronto Railway—Thorold Street Crossings.

This was an application by the Niagara, St. Catharines and Toronto Railway Company, under section 186 of the Railway Act, 1903, for leave to cross certain streets in the town of Thorold, in the township of Thorold, with its line of railway.

Hearing at Hamilton, May 8, 1906.

The town of Thorold opposed the application, contending that the applicant company's railway is a street railway or tramway, or is operated or to be operated as a street railway or tramway, and that leave could not be given to carry it across streets in the town without the consent of the town by by-law. Upon the evidence, it did not appear that the proposed branch line was a street railway or tramway, or intended to be operated as such. The applicant company's main line was constructed upon the company's right of way and did not run along the streets in Thorold, nor did its cars stop at street corners to take up or let off passengers, but only at its own stations.

SESSIONAL PAPER No. 20c

In the year 1902, by authority of the parliament of Canada and of the legislature of the province of Ontario, the applicant company acquired the property and undertaking of the Port Dalhousie, St. Catharines and Thorold Electric Street Railway Company, Limited, a company incorporated under the authority of the legislature of the province of Ontario, for the construction and operation of an electric street railway, and the applicant company now operates the line of that street railway in and upon the streets of Thorold and elsewhere; but the branch line authorized by order of the board, and which the applicant company desired to carry across these streets, was to be taken from the main line of the applicant company's railway and not from the street railway system.

Judgment, Chief Commissioner, June 19, 1906.

The prohibition in section 184 of the Railway Act, 1903, is against the authorization of the operation of a street railway or tramway along a high way. In the present case the application is for crossings only. In one case, the crossing is to be at an angle which would force the railway upon the street for a considerable distance, but it seems to be none the less a crossing. The evident intention of the Act is to require railway companies proposing to operate a street railway system, and to use the streets as their right of way, to procure the assent of the municipality for that purpose. The Act authorizes a company to carry its railway across streets by leave of the board, and the only qualification is that the consent of the municipality is required where the railway is a street railway or tramway which runs along, and not merely across, the street.

Held, that the application should be granted.

Re The MacGregor-Gourlay Co., Limited, Complaint.

This was a complaint by the MacGregor-Gourlay Co., Ltd., respecting the obstruction of South Water street in the town of Galt, alleging that the Grand Valley Railway Company had raised its tracks from ten inches to two feet above the level of the street in contravention of an agreement between the town and the railway company, entered into September 13, 1905.

Under this agreement, the company was required, amongst other things, to—

(a) macadamize 22 feet in width of the roadway where practicable—such work to be done in a manner satisfactory to the board of works, who were to have the power to direct what portion of the roadway of 36 feet in width should form the 22 feet to be macadamized;

(b) lay and maintain the top of the surface of the ties so as to be flush with the adjoining surface of the street; but where the track should be laid in or about the centre of the street, it was required to lay and maintain its rails so that the top thereof should be flush with the adjoining surface of the street.

The agreement also provided that any disputes were to be determined by the board of works of the town. The board caused its engineer to make an inspection of the line of the Grand Valley Railway Company along South Water street, and he reported that 'from the end of the bridge across the Grand river to the south end of the property owned by the Beers Tannery, the track along Water street is from 4 inches to 12 inches above the level of the street, so that access to the property on the west side of the street is cut off. . . .'

The engineer expressed the opinion that the company should put its tracks down to the level of the street, so that the owners of the property on the west side of the street might have unobstructed access to their property.

Under direction, the company was asked to advise the board whether it had since complied with the terms of the agreement between it and the town, and the clerk of the town notified that this had been done, with the additional notification that, under sections 186 and 187 of the Railway Act, 1903, the board has jurisdiction to direct that such works be executed or measures taken as appear to the board best adapted to remove or diminish the danger or obstruction arising or likely to arise from the

7-8 EDWARD VII., A. 1908

railway company's tracks; and that the board is not bound in this respect by the decision of the board of works; but may, if the civic authorities allow the railway and the street to remain in such a condition as unduly to obstruct traffic, direct the town, instead of the railway company, to take the necessary measures for protection of the public.

June 25, 1906.

In re Cockerline and Guelph and Goderich Railway Company.

Robert J. Cockerline applied to the board for an order directing the Guelph and Goderich Railway Company to make him an undercrossing between the parts of his farm severed by the railway line. The facts are specifically set forth in judgment of the Chief Commissioner below.

Hearing at Stratford, May 28, 1907.

Judgment, June 26, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., pp. 3, 4 *et seq.*): The board made an order, upon the advice of its engineer, directing the Guelph and Goderich Railway Company to provide for R. J. Cockerline three farm crossings over its line through his farm, two level crossings and one under crossing. The railway company has applied to have this order set aside on the ground that the board has no jurisdiction to require it to make a farm crossing under its railway.

Section 198 of the Railway Act, 1903, requires that,

'Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway for farm purposes. In crossing with live stock, the same shall be in charge of some competent person, who shall use all reasonable care and precaution to avoid accidents.'

In the case of *Armstrong v. James Bay Railway Company*, 7 O.W.R. 75, 12 O.L.R. 137, Sir Wm. Meredith, C.J., expressed the opinion that the first subsection of section 198 did not apply to a passage-way under the railway track; he referred particularly to the provision requiring live stock, when crossing, to be in charge of a competent person, as indicating this view.

In this connection it seems well to refer to section 191 of the Railway Act of 1888, by which

'Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway by farmers' implements, carts and other vehicles.'

That required crossings to be made 'convenient and proper' for the purposes specified.

In *Reist v. Grand Trunk Railway Company*, 6 U.C.C.P. 421, Draper, C.J., expressed the opinion that, under 14 and 15 Vict., Ch. 51, sec. 13, requiring a company 'to erect and maintain' (among other things) 'farm crossings for the use of proprietors of lands adjoining the railway,' the expression 'farm crossing' might include 'a passage across and upon the railway itself—a crossing at grade, or a bridge over, or a tunnel under the railway,' adding, 'I observe nothing in the Act which necessarily excludes either of these interpretations.'

The language of the first subsection of section 198 is much changed. The crossings are required to be 'convenient and proper for the crossing of the railway for farm purposes.' In *Armstrong v. James Bay Railway Company*, 7 O.W.R. 715, 12 O.L.R. 137, the learned Chief Justice indicated a doubt as to the power of the board, under the second subsection of section 198, to require a company to provide an undercrossing.

Apart from the reference to live stock, in the first subsection, I should feel no difficulty in agreeing with the view taken by Draper, C.J., in *Reist v. Grand Trunk Railway*, and in applying that to the construction of section 191 of the Act of 1888.

In construing section 198 of the present Act, we should, I think, start from the position that the previous law required undercrossings, if other convenient and proper

SESSIONAL PAPER No. 20c

ones could not be obtained. Subsection 2 is wide enough in its terms to include undercrossings. It gives the board power to order a company to provide a suitable farm crossing, and to order and direct how, when and where it shall be constructed.

The principal argument against that view is that the word 'across' means 'over,' or 'on the surface of.' In Webster's Dictionary the word is defined as meaning 'from side to side,' 'athwart,' 'crosswise,' 'quite over.' The latter expression certainly does indicate something above, but the other equivalents do not. Usually, resort must be had to the context. We may go across a river upon a bridge, by boat, by swimming, or by a tunnel underneath the water. A net or a rope may be properly said to be stretched across a river although underneath the water. The word 'across' is equally applicable in any case.

In section 184 of the Railway Act, 1903, authority is given to carry a railway 'upon, along or across' a highway.

By section 186 authority is given, on any application for leave to construct the railway 'upon, along or across' a highway, to order it to be carried over or under the highway. The section makes it clear that in crossing, the highway may be placed under the railway, or the railway under the highway; but the undercrossing and the overcrossing equally are included under the expression 'across.'

Section 197 of the Act speaks of drainage or drainage works 'upon and across the property of the landowners,' and 'upon and across the railway and lands of the company.' Having reference to the subject, drains underneath the property or railway would naturally be considered as included, and this is obvious by the latter part of the section providing that 'no drainage works shall be constructed or reconstructed upon, along, under or across the railway or lands of the company,' &c.

In the present case, the railway is carried across Mr. Cockerline's farm upon a high embankment constructed for the purpose, any crossing over which would be inconvenient. I do not think that the so-called level crossings alone would be considered to be 'suitable.'

Some attempt was made upon the hearing of the application to show that Cockerline, in conveying the right of way to the railway company and agreeing upon a price therefor, intended to release the right to a farm crossing, or farm crossings, and to accept compensation for their loss.

To my mind, the evidence establishes directly the contrary, and that Cockerline acted under assurances calculated to lead him to believe, and which did lead him to believe, that his application to the board for an under crossing would not be prejudiced by the execution of the conveyance and acceptance of the purchase money.

Under all the circumstances, it appears to me that the order should be affirmed, with costs to be fixed by the secretary of the board.

Re Complaint of Staunton's, Limited, Toronto.

This was a complaint by Staunton's, Limited, of Toronto, against the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company, alleging that the freight rates charged by these companies on wall paper shipped from Toronto to points in eastern Ontario and in the provinces of Quebec, New Brunswick and Nova Scotia, were excessive and discriminatory in comparison with the rates in effect upon similar merchandise carried in the opposite direction; and complainants applied for an order disallowing the present east-bound rates on their goods and restoring those in effect prior to November 15, 1905.

Hearing at Toronto, May 9, 1906:

Judgment, Chief Commissioner, June 28, 1906.

The board considers that the long continued existence of the former tolls affords strong evidence of their reasonableness, and that it does not appear that there has been any change of circumstances, or that there is any sufficient reason for the changes recently made in those tolls; that the charging of higher tolls for the traffic in question from Toronto eastward than are charged for similar traffic from Montreal and

7-8 EDWARD VII., A. 1908

other points westward constitutes an unjust discrimination against the Toronto shippers, and that these tolls should be equalized.

Order of board, July 31, directing that the said companies reduce their tolls for the said east-bound traffic from Toronto to Montreal to those in the tariffs for similar west-bound traffic between the same points; that the tolls to Montreal be not exceeded to Ottawa, nor to intermediate points; and that the tolls to points east of Montreal be reduced by the amount of the said reduction to Montreal. Also that the tariffs to be made under the order come into force not later than September 10, next.

P. C. Patriarche and Burlington Canning Co., v. The Grand Trunk Railway Co. and The Hamilton Radial Electric Street Railway Co.

This was an application, under sections 253 and 271 of the Railway Act, 1903, to compel an interchange of traffic between the two railways.

The Hamilton Radial Electric Street Railway Company was incorporated by Act of the legislature of the province of Ontario. Its undertaking and railway have never been declared by the parliament of Canada to be a work for the general advantage of Canada, or for the advantage of two or more of the provinces.

The Grand Trunk Railway was, by the Railway Act of 1888, declared a work for the general advantage of Canada, and subject to the legislative authority of the parliament of Canada.

The Act of 1888 was repealed upon the coming into force of the Railway Act, 1903.

By section 7 of the latter Act,

‘Every railway, steam or electric street railway or tramway, the construction or operation of which is authorized by a special Act passed by the legislature of any province, now or hereinafter connecting with or crossing a railway which, at the time of such connection or crossing, is subject to the legislative authority of the parliament of Canada, is hereby declared to be a work for the general advantage of Canada in respect only to such connection or crossing or to through traffic thereon or anything appertaining thereto, and also to the provisions set forth in this Act relating to offences and penalties, navigable waters and criminal matters, and this Act shall apply to that extent only.’

Some years before the coming into force of the Railway Act, 1903, a physical connection was made between the two railways, but no order was obtained authorizing such connection either under section 173 of the Railway Act, 1888, or section 177 of the Railway Act, 1903, although a crossing had been authorized by the Railway Committee of the Privy Council in 1897.

Hearing at Hamilton, May 9, 1906.

Judgment, June 28, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas., 200): Held, that parliament has the incidental power to determine the terms upon which a railway, not otherwise subject to its legislative authority, may connect with or cross one that is so subject, and the obligations between the companies concerned.

British North America Act, section 91 (10) and (c), and section 92 (29), sections 306 and 307, Railway Act, 1888, and section 7, Railway Act, 1903, referred to.

Held, that such connection being illegal, no order should be made. An application to authorize the connection, under section 177 of the Railway Act, 1903, must first be made.

The Guelph and Goderich Railway Co. v. The Guelph Radial Railway Co.

The Guelph and Goderich Railway Company applied under section 177 of the Railway Act, 1903, for leave to construct and operate its railway across the railway of the Guelph Radial Railway Company on the Elora road, outside the limits of the city of Guelph.

The Guelph and Goderich Railway Company was incorporated by an Act of the parliament of Canada, 4 Edward VII., chapter 81, assented to June 6, 1904. A plan

SESSIONAL PAPER No. 20c

showing the location of its line across the Elora road, outside the city of Guelph, was approved by the board on July 2, 1904, filed in the Registry Office on July 8, 1904, and notice of the proposed location published in local newspapers in August, 1904.

This application was filed on August 16, 1905, and an order was made giving leave to the Guelph and Goderich Railway Company to cross the highway at that point, on October 13, 1905.

On the 25th May, 1905, by 5 Edward VII., chapter 91, the Guelph Radial Railway Company was empowered to build and operate an extension of its railway on the Elora road, outside the city of Guelph. Its location had been authorized by a by-law passed by the council of the county of Wellington on June 4, 1904.

Hearing at Stratford, December 4, 1905.

Judgment, July 5, 1906.

Killam, Chief Commissioner (5 Can. Ry. Cas. 180): Held, that the location and operation of the Radial Railway Company had, under the circumstances, become authorized on May 25, 1905, and was prior to that of the applicant company, and that, following the usual course, the applicant company must be at the expense of the crossing and maintenance of any necessary protection.

Ruling re Erroneous Rate Quotations.

Chief Commissioner, July 31, 1906:—

The board is appointed to enforce the Railway Act—not ordinary contracts. In my opinion, the board should recognize as valid only the tolls set out in the tariffs authorized by the Act, and it should not assume to interfere with charges made in accordance with such tariffs on the plea that lower rates were quoted by a company's agent. Such a practice would open the door to rebates and preferences.

If parties have any right to relief in such cases, they should seek it in the ordinary courts on the ground of breach of special contract or of misrepresentation.

The Act giving the board jurisdiction respecting rates of express companies does not apply to past transactions, and the functions of the board will be confined to the approval of tariffs for the future and dealing with tolls under them.

Chief Commissioner, September 19, 1906.

Re Grand Trunk Pacific Right of Way at Clover Bar, Alberta.

Complaint was made to the board respecting the methods adopted by agents of the Grand Trunk Pacific Company for the acquisition of lands for the company's right of way.

Held, Chief Commissioner, October 9, 1906, that the subject-matter of the petition is one over which the board has no jurisdiction; that, under the Railway Act, 1903, upon approval of its location plans, a railway company is entitled to acquire its right of way either by voluntary conveyance from the owners of the necessary lands or by expropriation proceedings. The Act gives to the Board of Railway Commissioners no authority respecting either method of acquisition of these lands. If parties are induced by unlawful misrepresentation or duress to part with their lands on unfavourable terms, they must seek their redress in the ordinary tribunals. The proceedings for expropriation are set out in the statute, and the board is given no authority over either the procedure or the amount of the compensation.

Re Postal Cars.

Judgment, Chief Commissioner, October 10, 1906:

I am not at all clear that the board has jurisdiction to compel railway companies to alter their ordinary practice in regard to the respective locations of mail and baggage cars. Possibly the jurisdiction may exist under section 212, subsection 2, of the Railway Act, 1903; but, even if there is such jurisdiction, I do not think that the board should interfere with the discretion of railway officials upon this point.

7-8 EDWARD VII., A. 1908

It is not easy to determine whether there is materially greater danger to parties in the first than there is to those in the second car.

Even if greater consideration should be given to those who are not employees of the railway company, there does not appear to be any reason for giving preference to mail clerks over the employees of express companies.

In re Highway Crossings.

Statement of facts taken from judgment of Chief Commissioner:

During the official trip of the board in western Canada in the summer of 1906, a number of applications were brought before it in respect of street crossings over railways in the province of Alberta. One of these related to a large number of crossings in the city of Calgary over the line of the Canadian Pacific Railway Company. This was settled by agreement between the city and the railway company, and an order, in conformity with the agreement, was issued later.

Another was an application by the town of High River for an order directing the Canadian Pacific Railway Company to provide and construct a suitable highway crossing where its railway intersected Fourth street in that town. The application alleged that there was no railway crossing between the Calgary and Macleod trail and Seventh street according to a plan which showed Fourth street as lying in the intermediate space, and that the opening of Fourth street was necessary for the proper enjoyment of the use of the streets of the town and for the safety of the inhabitants.

A third was the application of the town of Olds for leave to construct certain highways across the railway of the Canadian Pacific Railway Company's Calgary and Edmonton branch at Olds, to join and connect certain main streets lying on each side of the railway.

While this application alleged the previous existence of certain crossings upon the lines of certain main streets, known as Second and Third streets, it further alleged that the only legal crossing which the town had at the time of the application was at the extreme north end of the town, which was north of either of the streets named.

A fourth was that of the town of Didsbury, for an order, 'under the provisions of the Railway Act, 1903, respecting highway crossings, being sections 184 to 191, inclusive, and particularly under section 187, directing the Canadian Pacific Railway Company to construct and provide a suitable crossing, and to maintain the same perpetually where the continuation of Hespeler street, in the said town of Didsbury, if continued easterly, without the obstruction being placed thereon by the Canadian Pacific Railway Company, would cross the said railway company's right of way.'

The application alleged that Hespeler street in Didsbury, 'for some years past, and until it was obstructed by the said the Canadian Pacific Railway Company on or about the 1st day of August, 1906, was a highway, and was used as such by the public.' It further alleged an express agreement between the railway company and the town for making Hespeler street a perpetual highway across the railway, and that the town had, at the request of the railway company, improved Hespeler street upon the company's right of way, and had expended a considerable sum of money in doing so; that the railway company had placed a large quantity of earth upon Hespeler street where it crossed the company's right of way, and that the town had used and employed this earth in further grading and improving the street at the request of the railway company; and that the railway company had indicated by a sign that there was a highway crossing over the railway at that point; and setting forth other circumstances as showing the importance, in the public interest, of having a highway crossing at Hespeler street.

The application further alleged that the railway company had recently obstructed the crossing at Hespeler street and deprived the public of the use and enjoyment thereof.

A fifth application was made by the village of Leduc for a street crossing over the Calgary and Edmonton branch of the Canadian Pacific Railway Company at Mill

SESSIONAL PAPER No. 20c

street. In answer to this application, the Canadian Pacific Railway Company submitted a plan of the town site and existing crossings at Leduc, pointing out that, 'from the plan it will be seen that there is already a crossing at the point known as "Edmonton Trail," another nearly opposite Main street, and a third about 1,600 feet south of the latter.'

Upon examination of the locality by an engineer of the board, he reported that he had inspected the site of the proposed crossing in company with the overseer and principal business men of the village, and that 'the overseer and the others agreed that, if the village has to build and maintain the crossing, it would be just as well for them to build a road along the east side of the railway from Mill street north to Main street, and cross there where there is already a crossing.'

Subsequently, the village presented to the board a formal petition with reference to the crossing at Main street, setting out that what was and is sought was the making permanent of a crossing at Main street, which crossing is and always has been the most commonly used access to the railway station.

In the case of High River, negotiations took place between the town and the railway company which did not result in a complete agreement, but served only to indicate the respective positions of the parties. The town desired, in addition to the crossing at Fourth street, to have the passenger station of the company removed to the neighbourhood of that crossing, and offered, in consideration of these advantages, to pay a certain sum towards expense of such removal, and to procure for the railway company a piece of land for the prolongation of its yard at the town in a southerly direction. The company claimed to be bound by an agreement with a private party which prohibited it from removing the station to the desired position, and objected to the establishment of a street crossing at Fourth street, but offered to allow a crossing to be established at Third street and to remove the station to the neighbourhood of that crossing, provided the town would procure for the company the proposed lands, and would close the admittedly existing highway crossing over the railway at Seventh street. The town refused to accept the condition for the closing of the crossing at Seventh street.

In the case of the town of Olds, the railway company offered a crossing at Second street, with an extension of Railway street (which runs parallel with the railway) to Seventh street, and another crossing on Seventh street. The town was willing to limit its request to a crossing at Third street and one at Seventh street, with the extension mentioned.

Didsbury is not a town, but a village municipality, established under the ordinances of the Northwest Territories. Counsel for the village claimed that a public highway had been established at Didsbury by dedication of the railway company, after the construction of the railway. It was not suggested that any public highway had existed at that point before the railway was constructed. The contention on behalf of the railway company, was that it was incompetent for the company to establish a highway by dedication without leave of the Railway Committee of the Privy Council under the legislation preceding the Railway Act, 1903, or of the board since its establishment. Counsel for the village argued that the railway company could so dedicate without leave.

In the case of the Leduc application, which is also a village established under the ordinances of the Northwest Territories, counsel for the railway company submitted an offer to allow a crossing to be authorized at Main street, as well as another at Douglas street, in the village, upon the condition that it should be ordered that, in case of any protective measures or appliances being required at the crossing in the future, the cost thereof should be borne by the village. It was claimed, on behalf of the village, that it had for a long time a crossing at Main street, and that the village ought not to be now bound to bear such expense.

Judgment, Chief Commissioner, November 6, 1906.

. In connection with these cases it appears to be desirable to consider the functions of the board with respect to railway and highway crossings. Sec-

7-8 EDWARD VII., A. 1908

tion 184 authorizes the board to grant leave to a railway company to carry its tracks upon, along, or across an existing highway. Section 186 lays down a method of procedure 'upon any application for leave to construct the railway upon, along or across an existing railway,' and authorizes the board to grant such application upon such terms and conditions as to protection, safety, and convenience of the public as it may deem expedient, or to order that the highway be carried over or under the railway, and works to be executed or measures taken to remove or diminish the danger or obstruction arising or likely to arise therefrom; and section 187 confers upon the board the power, in the case of a railway already existing upon, along, or across a highway, to make any order in respect thereto as in the previous section provided.

Other provisions of the Act impose upon the railway company specific duties with reference to highways, or assign to the board certain specified powers with respect thereto; and the board, under the general jurisdiction given by section 23, is empowered to compel railway companies to observe the duties cast upon them by such provisions of the Railway Act.

As I have previously had occasion to point out, the board is a creature of the statute, and has only the powers given to it by statute. While constituted a court for the purpose of exercising the jurisdiction conferred upon it, the board is not a court for the determination of all questions arising between the public or individuals and a railway company. The board has no general jurisdiction to determine whether a public right of crossing over a railway exists; but, in cases in which it is called upon to exercise the powers specifically conferred upon it with respect to highways, or its jurisdiction to enforce performance of the duties of railway companies with respect to highways, it has, incidentally, the power to inquire and determine whether, in fact, a right of crossing does or does not exist at a particular point.

For two or three years the public were in the habit of crossing the railway upon the line of Hespeler street in Didsbury, and this was facilitated by the grading of a street line upon the company's right of way outside the rails and by planking at and between the rails. This work has been undone and the crossing so obstructed that the public cannot now cross. It appears to me, that, if there is a public right of crossing at that point, the board has jurisdiction, under sections 186 and 187 of the Act, to direct that such measures be taken as to enable the public to cross there safely and conveniently, and that, for the purpose, the board has jurisdiction to determine whether the right of public crossing exists.

The Railway Act, 1903, nowhere prohibits in express terms the construction of a highway, or the giving of a public right of crossing over a railway, without the leave of the board; but it appears to assume that, for some purposes, such leave is necessary. I take it to be assumed that, without some provision therefor, a municipality or other body having power under the local law to open a highway across private property without the consent of the owner, could not open such across property dedicated by authority of the parliament of Canada to the purposes of a railway; and it appears to me that the provisions of section 186 are intended, in part, to afford the means of enabling such municipality or body to do this where the public interests require it. But, in my opinion, this clause enabling the board to give leave for the construction of a highway across a railway, was not intended to provide a means by which private individuals, or bodies not otherwise possessed of power to open highways, could do so.

In this connection the question naturally arises whether the steps to open such a highway must be taken by the municipality or other body in accordance with the law generally applicable to the opening of highways, and whether compensation has to be given and determined according to such law.

I have never hitherto been called upon definitely to determine that question, which is by no means a simple one. Hitherto, without careful consideration, I have expressed an inclination to the view that the local law is applicable. On further consideration, however, I doubt this; but, in view of the fact that the point is, so far as I know, wholly unsettled by authority, and of my having previously used expressions which may have induced parties to consider the question to be settled so far as this

SESSIONAL PAPER No. 20c

board is concerned, I would be ready to receive any argument upon the point which any one might desire to offer. It is very probable that parliament intended the whole matter to be settled by this board, and all the conditions in respect of compensation, as well as of procedure, construction, and precautions, to be determined by the board. Section 36 gives to the board general power to impose terms in making an order, and the provisions of section 47 appear capable of application to such a case without undue straining of language. The board has already decided that it is not bound to grant compensation to one railway company for the crossing of its line by the railway of another company; and the same principle might well be applied in cases of highway crossings.

But it should be observed that the power of the board in this respect is to give leave. The board is not authorized to direct or compel railway companies to construct or make highways across their lands where a public right of crossing does not already exist by law, though it may give leave to a company or to some other bodies, on some terms, to do so.

In the Didsbury case, counsel for the railway company cited the remarks of Hon. Mr. Blair, when Chief Commissioner, in an application made by the city of Calgary, in 1904, reported in volume 10 of the reports of proceedings of the board, at page 4527, as follows:—

‘Hon. Mr. Blair: Your legal position I cannot think would be very much improved or strengthened by reason of what has transpired; without an order of the Railway Committee of the Privy Council, or without an order of this board, you have no legal right whatever to cross those tracks, notwithstanding, or no matter what may have been the understanding between you, or the agreement between you, or the user which has taken place, and no matter what dedication may have been made. The matter of dedication of a highway there would be a totally distinct and separate thing from the legalizing of the use of the right of way, or that portion which is occupied by the tracks of the railway company for the purposes of a public highway. You have got to have that authority or else you have no legal ground upon which to stand.’

Upon a previous citation in another case of these remarks, I expressed myself as being inclined to the same view. Counsel for the village, however, argued strongly for the power of the railway company to dedicate a portion of its right of way for use as a public highway without the leave of the Railway Committee or of this board. Upon a reference to Canadian authorities I do not find that the contention of the railway company is as well supported as I was inclined to think at the time of the hearing. *Guthrie v. Canadian Pacific Railway Company*, 31 S.C.R. 155, and *Grand Trunk Railway Company v. Valliear*, 2 Can. Ry. Cas. 245, 3 Can. Ry. Cas. 399, 7 O.L.R. 364, related to private rights; and *Grand Trunk Railway Company v. Valliear* was so distinguished in the Court of Appeal.

The expressions used by Hon. Mr. Blair and myself may have led counsel for the railway company to omit careful examination or argument of the question; and counsel for the village did not discuss the Canadian cases or the terms of the Railway Acts. It appears to me desirable, therefore, that, before the board makes a definite decision upon this important question, an opportunity should be given to the parties to present such further arguments in writing as they may desire; and, in this connection, it would be desirable that further consideration be given by counsel to some other questions, such as the sufficiency of the evidence to warrant an inference of an intention on the part of the railway company to dedicate, and the power of the Canadian Pacific Railway Company to do so in respect of the line of the Calgary and Edmonton Railway Company; and the board should be furnished with evidence of the relations of these two companies respecting the line. I understand that the line is under lease to the Canadian Pacific Railway Company, which may have no power to dedicate any portion of the land of the Calgary and Edmonton Railway Company as a public highway, even if it could so dedicate a portion of its own land; and circumstances which would warrant the inference of a dedication by the company whose officials are operat-

7-8 EDWARD VII., A. 1908

ing the railway, might be quite insufficient to warrant such an inference as against the lessor.

Towns and villages along the line of the Calgary and Edmonton Railway owe their existence to that railway. Necessarily they must submit to many inconveniences inseparable from such a situation. Where the board exercises a discretionary power to determine at what points on such a railway street crossings shall be opened, it is obliged to consider the relative convenience of the public and the railway company as well as the public safety. The efficient operation of the railway is a matter of importance to the public generally and to the residents of the particular locality dependent upon it. It is particularly incumbent upon the board to protect the public from the dangers attending such crossings; and in the performance of this duty, it must be on its guard against being too readily influenced by the insistence of those desiring relief from present inconvenience and led by self-interest to minimize the danger.

An examination into the position at High River indicates the importance to the community of a street crossing near the business centre of the town. It is admitted that the town was laid out by the original promoters of the railway, who, therefore, are, in some measure, responsible for the situation which has developed; and the company at present operating the railway must, for an application of the kind in question, be treated as affected by this responsibility. On this ground, it appears to me that there should be a crossing at Third street upon the terms agreed to by the town, which appear to afford reasonable compensation to the railway company. Under the circumstances of the town and the probability of its growth westward, the closing of Seventh street should not be insisted upon.

As regards Olds, the situation appears to be much the same. The convenience of the community, it appears to me, demands the crossing at Third street; but, for the present, I do not think that more should be allowed, or that the southern crossing offered by the railway company as a condition of being relieved of the crossing at Third street should be authorized.

At Didsbury, the promoters of the railway laid out the town site on one side of the railway only, retaining, in one block, land lying along the other side of the line. They held out no inducement to the growth of a town or village to the east of the railway. Such growth as has arisen there, is upon land thus separated from the railway and the town on the western side. The village is much smaller than High River, and the importance of a crossing at a particular point is not so great. The public have not long been accustomed to regard the crossing at Hespeler street as an open one. If there were no question of the existence of a public highway at Hespeler street, but the case was submitted merely to the discretion of the board, I would not be in favour of authorizing the crossing at that street. If the railway company will so place the warehouses on the east side of the track as to be convenient to the crossing at Waterloo street, that crossing should, in my opinion, sufficiently answer the needs of the village.

It does not appear that the village has full power to open highways. Apparently this power was not given by the ordinances under which it was constituted. We have been referred to a late statute of the province of Alberta, the terms of which I have not yet had an opportunity of learning. Unless the village has such power, I do not think that this board can authorize the village to open a highway over the tracks of the railway company against the will of the company, although the board might empower the company to open such a highway if it was willing to do so.

As to Leduc, I think that the company ought to open Main street at least, unconditionally, leaving the question of protection for future consideration when the necessity arises. The company expressly indicated the crossing at Main street as open in answer to the application for the making of a crossing at Mill street. If the company is unwilling to do this, the matter is open to the same difficulty as in the case of Didsbury, though, upon its appearing that the locality has become incorporated as a town, an order might be made. If, upon further consideration of the Didsbury application, it should appear to the board that, without leave, the company could dedicate a strip across its land as a public highway, and the company is unwilling to

SESSIONAL PAPER No. 20c

allow the crossing at Main street as suggested, the village should have an opportunity of showing the existence of a public highway across the railway at that point.

Orders issued accordingly in the cases of the applications of the town of High River and the town of Olds.

NOTE.—The parties have been asked to submit further arguments in writing in respect of the question of the power of a railway company to dedicate a portion of its right of way for use as a public highway without authority of the Railway Committee of the Privy Council, under the Railway Acts, previous to the establishment of the board, or of the board since its organization.

High River Case.

Judgment in concurrence, Mr. Commissioner Mills.

I cannot help feeling that when a company, running a line of railway through a locality, fixes upon a place for its station and lays out a town site on both sides of its tracks, providing for streets running through the town (across its railway), and prohibiting the people who may settle in the town and use the said streets, from crossing the said railway within the limits of the railway yard, varying in length from one-third to one-half a mile or more, it (the said company) thereby creates an unreasonable and intolerable business condition, such as no class of people, whether living in the town or going there to do business, should be asked to submit to.

The unreasonableness of the prohibition above referred to is shown by the fact that in nearly every such instance the local railway officials allow people on foot to pass illegally across the railway tracks within the prohibited limits, as the members of the Railway Commission, their officials, and many others did on the day of the recent visit of the commission to the town of High River; and in not a few such places, vehicular traffic is allowed to pass illegally across the right of way and over the tracks within the prohibited limits, because the prohibition is felt and tacitly acknowledged by the railway officials themselves to be unfair, if not altogether indefensible.

For this intolerable business condition, the railway company is primarily responsible; and the people who, with knowledge of the facts, settle in a town where such a condition exists, are perhaps to some extent also responsible, in so far as they thereby tacitly agree or consent to work and live where such condition is imposed.

Therefore, I am of opinion that, in such cases, some measure of relief should be granted, and that the railway company should bear, say, one-half of the expense of providing such relief.

All rail-level crossings involve more or less danger, farm crossings, highway crossings, street crossings over single tracks in cities, towns and villages, and street crossings over two or more tracks within the limits of railway yards, some close to stations and others at greater or less distance therefrom. Nevertheless large numbers of each of these kinds of crossings are found all over the country, because public opinion (the law-making power) long ago decided and still maintains that such crossings are absolutely necessary. I admit that rail-level crossings through a railway yard are specially objectionable and should be avoided as far as possible; but, on account of the intolerable condition above described, the need for such crossings has been so great that, notwithstanding the danger, they have been made in nearly every town or village (not to speak of cities) through which a railway passes in the older provinces; and it appears to me that the Board of Railway Commissioners, especially on account of the increased and ever increasing length of railway yards, is now and will hereafter be under obligation to grant such crossings in response to reasonable applications and appeals by the business people of the country, until such time as there is special legislative provision for distributing and in some way defraying the expense of subways, overhead bridges, or other special forms of protection at many, if not most, of the crossings in our cities, towns and villages.

Further, rail-level crossings, especially crossings through a railway yard, cause a certain amount, possibly a considerable amount, of inconvenience to a railway com-

7-8 EDWARD VII., A. 1908

pany. This is admitted. Nevertheless I think it is manifest that such crossings must continue to be made until, as above suggested, there is special legislative provision for the construction of subways or overhead bridges at crossings which cannot be properly protected by the ordinary and less expensive methods. At present the question is who shall bear the inconvenience, the public or the railway companies? My opinion is, first, that the inconvenience should be equitably divided; and, second, that no class of people in any city, town or village should, in the transaction of business or the discharge of social or civil duties and obligations, be compelled to walk or drive unreasonably long distances in order to cross the right of way and track or tracks of any railway company.

In speaking of the Calgary and Edmonton Railway, I may say that I do not question the correctness of the statement that 'the towns and villages along the line of the Calgary and Edmonton Railway owe their existence to that railway'; but, I might ask if it is not equally true that the Calgary and Edmonton Railway owes its existence and its manifestly profitable traffic to the said towns and villages and the trade of the farmers who use the streets thereof.

I admit also that the board should 'consider the relative convenience of the public and the railway company, as well as the public safety,' and should not forget that 'the efficient operation of the railway is a matter of importance to the public generally, as well as to the residents of particular localities dependent upon it'; but the experience of railway companies and of the public generally in the older provinces of the Dominion goes, I think, to show that the interests of neither the one nor the other have been seriously sacrificed by granting the residents of particular localities reasonable facilities for doing business on the opposite sides of the lines of railway which pass through the cities, towns or villages in which they live.

I do not attach much importance to the insistence of those who seek relief; but I desire to give due weight to the facts in each case; and I never can bring myself to think that the board, on any mere theory of inconvenience to the railway company or from a desire to meet the wishes of the general public for more rapid transportation, is justified in allowing a railway company to create and maintain unreasonable or intolerable business conditions in any city, town or village through which it passes; and while I do not desire to minimize the danger of crossings through railway yards or elsewhere, I would venture the statement that most of the accidents on the railways in this country are due, not to crossings, but to collisions of various kinds on the railways, and to carelessness or recklessness in shunting, which results in the death of so many railway employees.

Therefore, my opinion is that the municipality of High River should be authorized to cross the right of way and track or tracks of the Calgary and Edmonton Railway Company on Third street in the said town as soon as it obtains and transfers in fee simple to the said company, the plot of land agreed upon between the company and the municipality, all as per agreement between the parties; and that Seventh street, in the said town, should be kept open and maintained as heretofore for the use of the public in that locality.

November 10, 1906.

Didsbury Case.

Judgment in dissent, Mr. Commissioner Mills.

Findings—

That the Calgary and Edmonton Railway Company graded and planked the railway crossing on Hespeler street, Didsbury, Alta., opened the said crossing, and maintained it during a continuous period of about four years, for hauling freight to and fro between the village on the west side of the railway and the freight tracks or sidings on the east side of the main line, and for general use by all who cared to travel to and from the east side of the railway, whether the residents of the village on the west side,

SESSIONAL PAPER No. 20c

the property holders on the east side, or the farmers and others in the country lying east, northeast, and southeast of the village.

That during the time that the crossing on the said street was in use, and without any kind of notice or intimation that it would ever be disallowed or closed, some seventy lots of land were bought on the east side of the railway, in what is now called Lacknerville, or Didsbury East. These lots, it appears, were bought and some houses were built in good faith and under the undoubted impression that on Hespeler street there would continue to be, as there had been, a regular public crossing over the railway, open at all times for the use and convenience of those who might wish to pass to and fro between their property on the east side and their place of business in the village on the west side of the railway.

That the owners of the said lots, with or without houses, have vested rights which they acquired on the faith that the railway company would continue to do as it had done regarding the said Hespeler street crossing, which crossing the company had itself established, maintained, and allowed the public to use without let or hindrance for a period of four years or longer.

Expressions of Opinion—

No doubt the railway crossing on Hespeler street did, when in use, and will, if restored, involve two things:

- (1) Some danger to the travelling public in that locality.
- (2) Some inconvenience to the railway company.

All rail-level crossings involve more or less danger—farm crossings; highway crossings; street crossings over single tracks in cities, towns and villages; and street crossings over two or more tracks within the limits of railway yards,—some close to stations and others at greater or less distance therefrom. Nevertheless large numbers of each of these kinds of crossings are found all over the country, because they are regarded as absolutely necessary; and they must, in my opinion, continue to be made, with or without protection and notwithstanding the danger, until such time as special legislative provision is made for defraying the cost of subways or bridges at crossings which involve serious risk. This, I take it, is the reason why the Railway Committee of the Privy Council allowed and legalized hundreds of more or less dangerous rail-level crossings on streets and through railway yards in the cities, towns and villages of the Dominion.

Further, every rail-level crossing, especially a crossing through a railway yard, causes a certain amount, possibly a considerable amount, of inconvenience to the railway company; and, after carefully considering the whole situation and circumstances, I am of the opinion that this inconvenience, like the danger above referred to, must continue until legislative provision is made for subways or overhead bridges at such crossings as cannot be satisfactorily protected by the usual means now in use. At present, the question is, who shall bear the inconvenience, the public or the railway companies? My opinion is that the inconvenience should be equitably divided: on the one hand, the railway companies should not be embarrassed by too many crossings through their yards—municipalities should not, in some instances be given all the crossings they ask for; and, on the other hand, no class of people in any city, town or village should, in the transaction of business or the discharge of civil and social duties or obligations, be compelled to walk or drive unreasonably long distances in order to get across the right of way and track or tracks of a railway company.

In my opinion, the aim of the commission should be, not to restrict, hamper or embarrass the business community by refusing or closing such railway crossings as reasonable convenience demands, but to provide protection at dangerous crossings and endeavour to distribute as equitably as possible the cost of such protection.

The distribution of the cost of protecting a railway crossing must always depend upon the facts and circumstances: Who created the necessity for the crossing? Who is responsible for the facts and circumstances which have made the demand for the crossing a reasonable one? Who is or are served by the crossing—the railway

7-8 EDWARD VII., A. 1908

company alone, the municipality alone, or both, or the railway, the municipality and the outside, surrounding public? What has caused the danger that makes the protection necessary—increased traffic on the railway, the running of fast through trains, or the growth of population and industries in the municipality?

I had stated my views *re* the distribution of the cost of protecting certain crossings in the village of Didsbury; but out of deference to the opinion of the Chief Commissioner, I decided to leave that question for future consideration—to be settled when the occasion arises—and shall deal only with the application for the re-opening of the crossing on Hespeler street in the said village.

In reference to this application, I may say that, for reasons which were obvious, though not openly avowed at the hearing, the railway company did not, in the case of Didsbury, lay out and sell any portion of its land on the east side of its line of railway, and did not thus contribute to any inconvenience which might result from a lack of crossings over its railway in the village; but, as already stated, it laid out the village on the west side of its line, placed its freight shed and freight sidings on the east side of its line, and established a regular crossing over its tracks on Hespeler street in the said village. For a period of four years or longer, the said Hespeler street crossing was used, not only for the business of the company, but for all kinds of traffic—village and farm traffic alike—without let or hindrance from the company, or any kind of intimation that the said crossing would ever be closed; and the evidence shows that, under the impression that on Hespeler street there would continue to be, as there had been, a regular public crossing, a number of people bought lots on the east side of the line, some of them built houses there, and others spent a considerable sum of money on Hespeler street, east of the line, in order to improve the road leading up to the crossing on the said street. Then, after a number of people had thus acquired rights on the east side of the railway, the railway company, without notice, closed the crossing on Hespeler street and opened another which it thought would better serve its purpose. This course of action by the company does not seem to me to be quite fair or reasonable; it might, perhaps, be described as arbitrary; and if the Railway Commission should approve of its as a fair and reasonable proceeding, it would, I think, thereby take a serious step towards establishing a new principle of law in dealing with the question of vested rights.

Therefore, my judgment is:

That the said Hespeler street crossing over the right of way and tracks of the Calgary and Edmonton Railway, in the village of Didsbury, in the province of Alberta, should be re-opened and maintained as a regular public crossing over the said railway at that point; the grading on each side of the track or tracks to be maintained in good order by the village, and the planking, not less than twenty feet long, between and on the outside of each pair of rails, to be laid and kept in good condition by the railway company.

February 1, 1907.

Re Queen's Wharf Crossing, Toronto.

This was an application by the Canadian Pacific Railway Company for an order to vary the order of the Railway Committee of the Privy Council, dated February 8, 1898, and the order of the board, dated July 27, 1905, by directing that the entire cost of operation and maintenance of the diamonds, interlocking, derailing, and signal appliances at the Queen's Wharf crossing, in the city of Toronto, of the applicant company's line of railway by the Grand Trunk Company's lines be borne by the two companies in the proportion which the total number of cars belonging to one company passing in any direction over the crossing bears to the total number of cars belonging to the other company passing in any direction over said crossing.

By an agreement between the two companies, the Grand Trunk Railway Company granted to the Canadian Pacific Railway Company running rights from the city of Toronto to the city of Hamilton, and by the agreement the expenses of maintenance of the tracks, &c., so used, and the other expenses connected with the operation of the

SESSIONAL PAPER No. 20c

section jointly used, were to be divided between the two companies upon a wheelage basis. The tracks so used are a portion of those crossing the Queen's Wharf spur of the Canadian Pacific Railway Company.

At the hearing (October 23, 1906), the applicant company claimed to be the senior company and to be entitled, on that account, to have the total cost of the protective appliances borne by the Grand Trunk Company.

The order of the Railway Committee of the Privy Council orally pronounced was that as the origin of the two companies was so close together in point of time, the committee was not called upon to determine the question of seniority, and that, therefore, each company should bear half the cost of construction, the cost of maintenance to be governed by the agreement.

It does not appear that any application was made by the applicant company to the Railway Committee for a change in the order, although there was some correspondence between the two companies in respect of the apportionment of the expenses between them.

Judgment, November 16, 1906.

Chief Commissioner: It appears to me entirely too late to take the ground that the order orally pronounced by the committee was varied on a subsequent application of the Grand Trunk Company without notice to the Canadian Pacific Company. Such an objection should be raised at once upon the order coming to the notice of the complainant company. And it appears to me, also, that this board should not now reconsider a decision of the Railway Committee upon the facts which were before it. It was the body established by law to determine such questions when the application came before it and when its order was made. The Railway Committee was a body whose membership was frequently changing. It would have been wholly unreasonable for that body to adopt the policy of changing its decisions with changes in the opinions of individual members of the committee. It would be equally unreasonable, it appears to me, for the new tribunal which has taken the place of the committee to substitute the individual views of its members for those of the former tribunal. It is true that the Railway Act gives to this board authority to vary orders of the Railway Committee, as well as to vary its own orders; but such jurisdiction, it appears to me, should not ordinarily be exercised except under changed circumstances, or for the purpose of rectifying errors which appear to have occurred through want of information, oversight, or otherwise. Even in the latter cases, application should be promptly made, as the facts respecting any alleged error or oversight are much more likely to be then ascertained.

When the application was before the Railway Committee it was, of course, unknown in what proportions the crossing would be used by the two companies, and there was very little before the committee which would enable it to judge the probabilities in this respect. But such must usually be the case.

I do not think that it would be reasonable or just to take up in this way individual cases in which it may appear that one company or the other is contributing an undue proportion of expenses of the kind in question, having reference to the respective proportions in which they use a crossing. If former orders of this kind are to be revised on such a principle, the general policy should first be determined upon, and a general inquiry made respecting at least all such as any railway company should desire to have considered. I doubt whether any company would derive from such a general inquiry an advantage which would recompense it for the expense and labour of engaging in it, and I doubt, also, whether the result would repay railway companies for keeping the necessary accounts respecting a number of crossings. If it is desired that the board should take up the consideration of the adoption of such a general policy, it might be made a subject of discussion with the railway companies generally; but, in the meantime, it appears to me that the board should not interfere with the order of the Railway Committee. The question whether, under the agreement between the two companies, the half ordered to be paid by the Grand Trunk Company should be charged

7-8 EDWARD VII., A. 1908

against the expenses to which the Canadian Pacific Company has to contribute, is not a question, in my opinion, for this board to determine.

Re Crossings of Railway Companies by Transmission Lines of Power Companies.

By order of the board of August 7, 1906, the Kaministiquia Power Company was granted leave to erect and maintain its transmission lines across the tracks of the Canadian Pacific and Canadian Northern Railway Companies' right of way at West Fort William, subject to the conditions set forth in the order, among which were the following:—

'1. That the applicant company, at all times, at its own expense, maintain, in good order and condition, the wires crossing the said railways so that at no time shall any damage be caused to the companies owning, operating, or using the said railways, or to any person lawfully upon or using the same.

'2. That the applicant company, at all times, wholly indemnify the companies owning, operating, or using the said railways of, from, and against all loss, costs, damage, and expense to which the said railway companies may be put by reason of any damage or injury to person or property caused by any of the said wires or any works or appliances herein provided for not being erected in all respects in compliance with the terms and provisions of this order, or if, when so erected, not being at all times maintained and kept in good order and condition, and in accordance with the terms and provisions of this order, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of any of the employees or agents of the applicant company.

'3. That no work, at any time, be done under the authority of this order in such a manner as to obstruct, delay or in any way interfere with the operation or safety of the trains or traffic on the said railways.'

The Canadian Pacific Railway Company applied for an order amending the said order, to provide that the erection, construction, and maintenance of the said wires be wholly at the risk of the Kaministiquia Power Company, and that the said company indemnify and save harmless the Canadian Pacific Railway Company 'of, from, and against all loss, cost, damage, and expense from any cause whatsoever to which the applicant company may be put by reason of any damage or injury to person or property or otherwise resulting from the erection, construction, operation, or maintenance of the said wires or any working appliances which may be provided in connection therewith.'

In support of this application, the Canadian Pacific Railway Company alleged that the construction, operation, and maintenance of high potential wires across its right of way was a source of the gravest danger to it, its property, and to the property and persons of those using the railway; that the presence of the said wires, even though properly protected so far as human foresight could provide, nevertheless meant that, in the case of an accident, whether due to exceptional causes or not, the resultant damage to the applicant company's property and that of third persons would be very far-reaching and was not a risk that should, under the circumstances, be assumed by the applicant company; that they should, therefore, be insured against any such loss, and requested that clause two of the order in question be amended in accordance with the application. The Canadian Northern Railway Company concurred in the application.

By agreement written arguments were submitted upon the question thus raised. Express agreements had been entered into between some of the power companies and some of the railway companies affected respecting a number of such crossings and the protection to be provided thereat. These agreements were approved by the board and orders issued accordingly. Among the provisions of such agreements are the following:—

'And the power company covenants and agrees that it will indemnify and save harmless the party of the first part; its agents, operatives, and employees, of and from

SESSIONAL PAPER No. 20c

any and all claims of every name, nature and description which shall be made against the railroad company or against such operatives or employees, by reason of any injury which shall come to any of them, or to the public, or to any property in transit upon such railroad because of the operation of its transmission lines or any thereof under this grant and license, and whether such injury shall be sustained through the derailment of any locomotive or car of the railroad company or otherwise, it being intended that all the risk of all accidents incident or arising from the construction, maintenance or operation of such cables over the railroad of the railroad company, however occurring, shall be borne by the power company. The railroad company is to notify the power company in writing of any such claims or of any suit for the recovery of such damages, and the power company may with the support of the railroad company arrange with the claimant or defend such suits.

‘All the work to be done by the power company or by its contractors, agents or servants in connection with the doing of the said work, or in connection with the repairs, renewals, or maintenance thereof, shall be done at the risk of the power company without expense to the railroad company

‘The power company covenants and agrees to keep, abide, and perform all the terms and conditions hereof, and shall and will at all times indemnify and save harmless its contractors, agents or servants, or to the agents or servants of any such contractors, or be done, incurred or caused by reason of the construction, repair, renewal, maintenance or use of the said work.

‘The railroad company shall not in any case be liable to the power company or to its contractors, agents or servants, or to the agents or servants of any such contractors, for any injury or damage to the person or property of the power company, or to the person or property of any of its contractors, agents or servants, or to the agents or servants of any such contractors which may happen, or be done, or caused by, or by reason of the doing of the said work, or during the repair, renewal, maintenance or use thereof; and the power company shall and will assume and does hereby assume all responsibility and liability for any and all such injuries and damages, whether caused by negligence of the railroad company, its agents or servants, or otherwise; and the power company shall and will indemnify and save harmless the railroad company, its successors and assigns, of and from all damages, claims for damages, demands, suits, recoveries, judgments or executions which may arise, or may be made, had, brought, or recovered by reason of or on account of any such injuries or damages. And it also covenants and agrees to indemnify and save harmless the railroad company, its agents, servants and passengers of and from all loss, injury or damage to it or to its agents, servants, or passengers, which may happen or be done or caused by reason of the doing of the said work, or by, or by reason of the repair, renewal, maintenance or use thereof, or by, or by reason of any failure to repair, renew or maintain the said work.’

The contention of the Canadian Pacific Railway Company was that the lines of the Kaministiquia Power Company were carried across land owned by the railway company; that no compensation had been given to it for this interference with its right of property; that the wires were to be used for the transmission of something from which there was great risk of injury; and that the railway company could not be compelled to bear any of the risk this occasioned while it arose from the default of the power company or from any source beyond the control of the power company.

The original application asked that the risk be thrown absolutely upon the power company, without providing for cases in which the injury might be due to the default or negligence of the railway company or its agents; but in the written agreements referred to, the railway company did not go so far, but suggested a clause which excepted from the liability proposed to be thrown upon the power company ‘any loss or damage directly attributable to any act, default, or negligence on the part of the railway company, its agents or employees.’

7-8 EDWARD VII., A. 1908

Judgment, Chief Commissioner, November 17, 1906.

It appears to me that the contentions of the Canadian Pacific Railway Company are well founded, and that it ought to be at no risk of loss arising from the placing of such wires across its right of way or the transmission of electric power thereon, excepting in cases in which the loss is primarily due to its default or that of those for whom it is responsible. Telephone wires over railway tracks cause a measure of physical obstruction, from which there is some possibility of danger. Contact between such wires and other wires may result in injury. But there is no such danger ordinarily attending their existence over railway tracks as in case of wires transmitting high electric power. Usually, too, telephone wires are carried along highways and across railway tracks where the company does not own the land but has merely a right of crossing the highways; and it is not necessary, at present, for the board to determine what orders shall be made where power wires cross a railway upon a highway.

It appears to me that the clause now suggested by the Canadian Pacific Railway Company as a substitute for clause 2 of the original order and of the draft of the order proposed to be made in respect of the power company's second application, is a reasonable one and should be adopted. That clause is as follows:—

‘That the applicant company shall, at all times, wholly indemnify the railway company of, from, and against all loss, cost, damage, and expense to which it may be put by reason of any damage or injury to person or property or business caused by any of the said wires, lines, or any work or appliances herein provided for, or by the continuance or use thereof, whether caused by the same or any of them not being erected in all respects in compliance with the terms and conditions of this order, or if, when so erected, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of this order, or otherwise howsoever caused, as well as of any damage or injury resulting from the imprudence, neglect, or want of skill of any of the employees or agents of the applicant company; Provided, however, that the applicant company shall not be required to indemnify the railway company from and against any loss or damage directly attributable to any act, default, or negligence on the part of the railway company, its agents, or employees.’

The power company now alleges that it has constructed its works under the order of August 7, and that that order at least should not now be varied. It appears to me, however, that as the question is a new one and as it was raised so promptly after the railway company had received notice of the order made, the power company's objections should not prevail.

January 24, 1907. Upon the statements made in Mr. Montgomery's further communication of December 11, 1906, it appears that the Kaministiquia Power Company has power to construct lines for the transmission of electricity upon and along highways. I understand that this is not disputed by the railway companies, although opportunity has been given for the purpose. This being the case, I think that the power company stands in the position of the telephone company, acting under the provisional order of the Board of Trade, referred to in *National Telegraph Company v. Baker* (1893) chapter 186; and the Tramway Company, whose lines were constructed under statutory authority, referred to in *Eastern and South African Telegraph Company v. Capetown Tramway Companies* (1902) A.C. 381.

The lines authorized by the board's order of August 7, 1906, are not constructed across the lands of railway companies, but along the highways in respect of which the railway companies have merely rights of crossing. Under those circumstances, it does not appear to me that the power company should be responsible for any injury except such as may arise from its negligence or that of its servants or agents, and, in respect of such, the railway companies need no protection by order of the board.

I am, therefore, of opinion that we should not vary the original order in this case.

February 4, 1907. The Kaministiquia Power Company was incorporated by the legislature of the province of Ontario, from which it derives any authority that it may have to construct lines along the highways. With its action in this respect, this board has nothing to do. The board is not asked to give the company any authority to carry

SESSIONAL PAPER No. 20c

its lines along the highways; but as it is doing, and has done, so in accordance with the right which it claims, and as these rights are not contested by the railway companies interested, we may assume for the purposes of the applications before us, that the power company's action is lawful.

As the board has no authority to give or refuse leave to run along the highways, it does not appear to me that it should impose any condition to that being done. The company applied for leave to carry its wires across the tracks of the Canadian Pacific and Canadian Northern Railway Companies; and an order was made authorizing it to do so. The railway companies have since asked for the insertion of a condition throwing upon the power company the responsibility for any damage that may occur to the railway companies or those using the railways. Upon the grounds expressed in my memorandum of January 24, I do not think that such a condition should be imposed, as between the railway companies and the power company; and I think it best that we should simply refuse the applications of the railway companies, leaving the municipality and the public using the highways to such protection as is given by the provincial law.

*In Re Canadian Pacific Railway Company and Grand Trunk Railway Company,
Lennoxville Crossing Case.*

Under an agreement between the Grand Trunk Railway Company and the International Railway Company it was agreed that the said International Railway Company should bear the cost of providing, maintaining, equipping, and working an ordinary level railway crossing, together with all risk arising from such construction and operation. The agreement also contained the following provision: 'In the event of the government of this Dominion passing any Act whereby certain signals, interlocking switches, or other appliances shall be used on level railway crossings, it is hereby understood and agreed that the party of the second part' (being the International Company) 'will provide, work and maintain such at their own expense.'

Hearing, October 30, 1906.

Judgment, November 17, 1906.

Chief Commissioner (6 Can. Ry. Cas., pp. 78 *et seq*): Held, that the said clause of the agreement should not be narrowly construed; that the board had authority under the Railway Act, 1903, to order an interlocking system at this crossing for the protection of the public.

Ordered, that the Canadian Pacific Railway Company install, maintain, and operate the ordinary interlocking, derailing, and signal system, at its own expense, at the said crossing.

*Windsor, Essex and Lake Shore Rapid Railway Company Crossing, Talbot Street, in
the Town of Essex.*

The Windsor, Essex and Lake Shore Rapid Railway Company applied, under section 177 of the Railway Act, 1903, for leave to cross, at rail-level, with its track the track of the Michigan Central Railroad Company, on Talbot street, in the town of Essex.

After hearing and a personal inspection by the board, and upon the report of its engineer, the board, on May 25, 1906, made an order authorizing the applicant company to construct its line of railway across the track of the Michigan Central Railroad Company by means of a subway at a point distant not less than 1,200 feet west of the proposed point of crossing on Talbot street.

Later, the applicant company asked for a further hearing of its application, claiming that it had not previously received notice that the Michigan Central Railroad Company proposed to urge the construction of a subway, and that it was not prepared with proper evidence upon that point; that, on account of the nature of the locality, a subway crossing was not feasible there.

7-8 EDWARD VII., A. 1908

The company was directed to formally apply to rescind or vary the board's order; and upon a further hearing, and in view of the opinions expressed by the chief engineer of the board, as well as by other engineers, the board, by order, dated November 16, 1906, rescinded its previous order of May 25, 1906, directing the construction of subway, and authorized the crossing by the applicant company at rail-level, requiring:

(a) That the said crossing be protected by an interlocking plant known as the 'McSwain Interlocking Device'; derails to be placed on the applicant company's line of railway, on both sides of the said crossing; and the said derails to be interlocked with home and distant signals on the line of the Michigan Central Railroad Company;

(b) That the tracks of the Michigan Central Railroad Company be bonded to a point 400 feet beyond the distant signals;

(c) That the normal position of signals on the Michigan Central Railroad be at 'safety,' and the derails open on the applicant company's line;

(d) That the plan showing the position of the derails and signals, the description of machinery to be provided, and other necessary details, be submitted to the engineer of the board for his approval;

(e) That a day and night watchman be appointed to take charge of the said interlocking plant, who shall also operate the gates at the said point of crossing throughout the whole twenty-four hours for the protection of those using Talbot street in the ordinary course, the said men to be appointed by the Michigan Central Railroad Company, the wages of one of whom to be paid by the applicant company, and the wages of the other by the Michigan Central Railroad Company.

At the later hearing it was urged by the Michigan Central Railroad Company that, before the applicant company can be authorized to carry its track across the line of the Michigan Central Railroad Company, it must have its route and its location plans approved in the manner required by the Dominion Railway Act.

Judgment, Chief Commissioner, November 20, 1906.

Killam, Chief Commissioner: It does not appear to the board that this is necessary. Apparently the provincial Act did not require approval of the route or location of the railway by any authority. As the board held before, the requirement in the Electric Railway Act of Ontario that plans be filed with the provincial Minister of Public Works was a condition only to the exercise of the right to expropriate land and not a condition precedent to the right to construct or operate the railway. The company's Act of incorporation, 1 Ed. 7, c. 92 (Ont.), provided that the railway might be carried along and upon such public highways as might be authorized by the by-laws of the respective corporations having jurisdiction over the same. It is not disputed that the necessary authority to run along the highways has been given by municipal by-laws. The original Act, as well as the Ontario Act of 1905, cap. 110, authorized the railway company to carry its line across the line of any other company on the level. Before the passing of the Dominion Act declaring the company's railway to be a work for the general advantage of Canada, the board heard the application for a level crossing, and made an order authorizing the line to be carried underneath the Canada Southern Railway. The last mentioned Act provided that the Railway Act, 1903, and amendments thereto, with a certain exception, were to apply to the company and to its works, to the exclusion of the Electric Railway Act of Ontario or any provision of the Act incorporating the company or any amending Act inconsistent therewith; but provided that nothing therein contained should affect any action theretofore taken pursuant to the powers in such Acts. The application with which the board has now to deal is one for a variation of the former order, so as to allow of the crossing being made at grade. The board is of opinion that such an order may be made without approval of the route or the location of the railway under the Railway Act, 1903.

Judgment in dissent, Mr. Commissioner Mills.

In accordance with the report of the engineer, the board decided to refuse the application of the Windsor, Essex and Lake Shore Rapid Railway Company for permission to cross the Michigan Central Railway on Talbot street, in the town of Essex, and, instead, to grant the said company permission to construct a subway under the

SESSIONAL PAPER No. 20c

main line of the Michigan Central Railway in the southwestern part of the said town, and to carry its line at rail-level over the tracks of the Amherstburg branch of the Michigan Central Railway.

From this judgment, Mr. Commissioner Mills dissents as follows:—

Whereas steam railway companies have been and still are permitted and authorized to carry their lines of railway, even those on which are the heaviest traffic and fastest trains, across one another at rail-level in all parts of the country;

Whereas the ordinary derailing and interlocking appliances now used by railway companies were approved and ordered by the Railway Committee of the Privy Council and have frequently been approved and ordered by the Railway Commission as affording sufficient protection to the public where one steam railway crosses another at rail-level;

Whereas, by the junction of the block system in use on the Michigan Central Railway with the ordinary derailing and interlocking appliances, and the use of the gates and electric bell now maintained by the Michigan Central at the said crossing on Talbot street, the protection could, in my opinion, be made more perfect and complete than anything yet ordered by the board;

Whereas the construction of a subway at the point suggested will necessitate such an abrupt, long, and to my mind unreasonable diversion of the electric line as no municipality would permit—much less propose—in the case of a highway for ordinary vehicular traffic;

Whereas the proposed diversion of the electric line in the town of Essex will involve the making of two crossings instead of one, one by a subway under the main line of the Michigan Central Railway where it is impossible to get drainage, and the other at rail-level by the use of a diamond and derailing appliances on the Amherstburg branch of the Michigan Central Railway; and

Whereas interurban electric railways, intended especially to meet the wants of the farming community by carrying passengers for short distances and collecting scattering freight in small quantities throughout the rural sections of the country, receive no bonuses from the Dominion government, local governments, or municipalities, and consequently are unable to bear the cost of expensive subways or overhead bridges such as the heavily subsidized steam railway companies may be able to provide:

Therefore, I have to dissent from the above judgment, on the ground that in my opinion, the proposed diversion of the electric line, with all that it involves, is unnecessary, unreasonable and oppressive—not necessary for the protection of the travelling public, not even efficient for that purpose, as it proposes and involves a level crossing of a regular line of steam railway, at rail-level, with very much less complete and effective protection than could and would be provided at the crossing on Talbot street: unreasonable, because of the length and abruptness of the diversion, which, by the creation of a steep grade and three or four right-angle curves, will greatly diminish the hauling power of the electric line; and oppressive, because it imposes on the Electric Company heavy expense for the purchase of a new right of way through a good and well-peopled part of the town, the burden of an expensive subway where drainage cannot be obtained, and the outlay necessary for a diamond and protective appliances at a rail-level crossing over the Amherstburg branch of the Michigan Central Railway.

May 26, 1906.

Judgment in concurrence, Mr. Commissioner Mills.

This is an application by the Windsor, Essex and Lake Shore Rapid Railway Company, an electric road, to cross the tracks of the Michigan Central Railway, at rail-level, on Talbot street, in the town of Essex, Ont.

After considering the evidence submitted, the arguments of counsel, the report of the chief engineer of the board, and the whole situation and facts of the case as set forth at the hearings in Windsor and Essex, I may state briefly my opinion on two or three points:—

1. That if a subway off at Talbot street (as proposed), with all the difficulties

7-8 EDWARD VII., A. 1908

regarding drainage, were insisted upon, a very heavy, if not altogether intolerable, burden would be imposed upon the applicant company; and the danger to the travelling public in that locality would be greatly increased beyond what it now is, by adding a rail-level crossing of the electric road over the Amherstburg branch of the Michigan Central Railway to the rail-level crossing which now exists (and will continue to exist) for vehicular and pedestrian traffic on Talbot street. In fact, we might fairly say that two things would follow: the applicant company would be burdened, possibly bankrupted; and the danger to the travelling public would be doubled—without any compensating advantage, except in the matter of convenience to the main line of the Michigan Central Railway.

2. That the proposed subway, with its five per cent grade, would greatly hamper and injure the electric road in its freight traffic.

3. That if a rail-level crossing by the electric road over the tracks of the Michigan Central Railway on Talbot street, where a crossing protected by gates now exists for vehicular and pedestrian traffic, is granted, and stipulation is made that the most perfect form of protective appliances for such a crossing are installed, connected with the gates now in use at that point, and all (the new protective appliances and the gates) operated night and day by men chosen and controlled by the Michigan Central Railway,—if, say, all this is done, there will be only one rail-level crossing instead of two; the Michigan Central Railway will be well served; the electric company will not be embarrassed either by heavy capital outlay or in the operation of its line of railway; and, above all, the danger to the travelling public will be very much less than it would be with a subway and two level crossings, one partially protected and the other with little or no protection.

Therefore, I can only reaffirm my judgment of May 26, 1906, and concur in the conclusion to-day reached by my colleagues, the Chief and Deputy Chief Commissioners. November 20, 1906.

Re Kaladar Drainage.

The facts are fully set forth in the judgment of the Chief Commissioner.

November 20, 1906, Killam, Chief Commissioner:

The Canadian Pacific Railway Company applied to the board for an order authorizing the company to construct a ditch upon and across certain specified lands according to a plan submitted with the application.

The lands in question consisted of certain lots in concessions three and four of the township of Kaladar, and in concession two of the township of Sheffield, owned by different private individuals, only one of whom, James Murphy, has made objection to the construction of the drain through his land or the granting of the order.

The railway actually intersects all the lots except Murphy's, the nearest portion of which is distant several hundred feet from the line of the railway, and is separated from the railway company's property by the lands of other private owners which actually adjoin the railway.

The applicant company relies upon the powers given by subsections (*m*), (*p*) and (*q*) of section 118 of the Railway Act, 1903.

'(*m*) make drains or conduits into, through, or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

'(*p*) from time to time to alter, repair or discontinue the before-mentioned works, or any of them, and substitute others in their stead;

'(*q*) do all other acts necessary for the construction, maintenance and operation of the railway.'

On behalf of Murphy it has been argued that section 196 makes it the duty of the company to make and maintain sufficient ditches and drains along each side of the railway for the purposes of any necessary drainage; that this method is the only one that can be used after the railway has been completed; that this railway has been completed and in operation for many years, and any powers of expropriation of land, or of the use of adjoining lands for purposes of drainage, have been exhausted and

SESSIONAL PAPER No. 20c

cannot now be resorted to; that drainage by means of ditches along the railway has been found to be sufficient for the maintenance of the railway, as evidenced by its use for so many years; and that Murphy lands were not 'lands adjoining the railway' within the meaning of subsection (*m*) of section 118.

Section 196 provides that 'the company shall in constructing the railway make and maintain suitable ditches and drains along each side of, and across and under the railway, to connect with ditches, drains, drainage works, and watercourses upon the lands through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial or existing drainage of the said lands shall not be obstructed or impeded by the railway.'

This clause is evidently inserted for the purpose of imposing upon the company the duty of instituting such a system of drainage along its tracks as will prevent the interference of its works with the drainage of the lands of others. It is not intended to indicate the powers which the company may exercise for the proper construction and maintenance of its railway. These powers are found in section 118, and among them are powers from time to time to alter, repair or discontinue the works previously referred to and to substitute others in their stead, and to do all other acts necessary for the construction, maintenance and operation of the railway.

Under these powers it appears to me that, when a system of drainage established upon the construction of the railway is subsequently found to be insufficient, improvements may be made therein and such further drainage works executed as will assist in keeping the railway in an efficient condition and relieve it from the danger of injury by water. And I think that, for this purpose, the company may avail itself of the power contained in subsection (*m*) to make drains into or through lands adjoining the railway.

We have been referred to the case of Kingston and Pembroke Railway Company *v.* Murphy, 17 S.C.R. 582. In that case it was considered that a railway completed according to its charter could not be farther extended and lands compulsorily taken for the purpose. It should be noted, however, that that case was decided under the Railway Act of 1879, 42 Vic., c. 9, which did not contain the provisions of subsections (*p*) and (*q*) before-mentioned, and that what the company there sought to do was to construct an extension of its railway, not to alter or repair the works of its existing railway.

The natural meaning of the word 'adjoining' is lying next to or in contact with; contiguous. Such is the sense usually ascribed to it by the courts. See 1 Bouv. L. Dict. 93, 1 Am. and Eng. Enc., pp. 635-8; 1 Cyc. 765; *Rex v. Hodges*, M. and M. 341; *Josh v. Josh*, 5 C.B.N.S., 454; *Lighthouse v. Higher Bebington Local Board*, 14 Q.B.D. 849. Numerous United States authorities are cited in the dictionary and encyclopedias just mentioned. But, just as in the case of other words, when it is apparent from the context and subject-matter dealt with that the literal meaning of the word would defeat the purpose of the legislature, it must be assumed that the word was used in a different sense. *Moore v. Phoenix Insurance Company*, 64 N.H., 140, 6 Atl. Rep. 27; *Marsh v. Concord Mut. F. Ins. Co.*, 71 N.H. 253, 51 Atl. Rep. 898. See also *L. & S.W.R. Co. v. Blackmore*, L.R. 4 H.L. 610, 39 L. J. Ch. 713; *Coventry v. L.B. & S.C.R. Co.*, L.R. 5 Eq. 104; *Bateman v. Parker* (1899) 1 Ch. 599; *Hobbs v. Mid. R. Co.*, 51 L.J. Ch. 324; *Ind. Coope & Co. v. Hamblin*, 81 L.T. 779, 48 W.R. 438.

The general principle is best stated in the language in Maxwell on Statutes, 4th ed., p. 78. 'The words of a statute are to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the legislature has in view. Their meaning is found not so much in a strictly grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained.' See also Beal on Cardinal Rules of Interpretation, p. 34; *The Dunelm*, 5 P.D. 171, and *Wakefield Local Board v. Lee*, 1 Ex. D., at p. 343.

The statute authorizes the construction of drains into adjoining lands. It is obvious that it must be necessary in many instances to find outlets for the drains or

7-8 EDWARD VII., A. 1908

ditches along the sides of the railway tracks, and for this purpose to carry drainage works out of and beyond the land used for the railway right of way according to the natural configuration of the ground. In authorizing the carrying of drains through or under adjoining lands the legislature must have contemplated that the drains should leave the boundary line between the company's lands and those of other owners; and it must have contemplated that the distances to which they would be carried would differ according to circumstances. And it appears to me that the legislature could not have had in view the ownership of the particular parcels or strips of land through which it would be necessary to carry such works. Having once adopted the view—which, as it appears to me, is the necessary view—that under subsection (m) the railway company was authorized to carry drains away from the point of contact and into lands of others, I think that it necessarily follows that the power to carry the drains as far as might be reasonably necessary to effect the purpose for which they were to be constructed was included. Naturally such drainage works must be adapted to the formation of the land. It would be unreasonable to suppose that they were to stop at the boundary of the owner of the land next adjoining the railway, leaving the water to run as it would thereafter. In my opinion, ownership should not be treated as an element in determining whether or not the lands are 'lands adjoining the railway' for the purposes of a case such as that with which we are now dealing.

After consideration of the report of one of the assistant engineers of the board and the evidence taken upon the hearing, the chief engineer of the board has reported that he is 'of opinion that the sooner the water is taken away from the railway at this point the safer it will be for the railway embankment, and that this is necessary for the proper maintenance and operation of the railway.'

Under the amending Act passed at the last session of parliament, the board is empowered to make an order giving its sanction or approval to any matter, act, or thing sanctioned by the general Railway Act. It does not appear to me that the company needs any sanction or approval from the board to enable it to exercise the power contained in subsection (m) of section 118; but it is convenient that it should submit to the board proposals for the construction of any such works in order that the board may exercise some control as to the nature of the works and for the protection of other parties.

The evidence shows that the portion of Mr. Murphy's lot which would be cut off by the proposed drain is of little, if any, value, and that no serious injury would be done to the remainder of his land by the proposed work.

I think, therefore, that the order should go sanctioning and approving the construction of the drain as indicated by the railway company, with a condition that the railway company is to construct and maintain a suitable crossing over the drain for Mr. Murphy at such place and in such manner as shall be approved by an engineer of the board.

Re Express Companies' Contract Forms.

Section 27 of the Act 6 Edward VII., chapter 42, amending the Railway Act of 1903, gave to the board certain jurisdiction respecting express companies and the carriage of goods by express.

Under subsection 10 of that section, certain contracts for carriage by express are not to have any force or effect until first approved of by order or regulation of the board.

By section 11 any such contracts lawfully in use at the time of the passing of the Act were allowed to be continued to be used and to have effect until November 1, 1906, or until such later date as the board might by order in any case, or by regulation, fix and limit. Before the said November 1, 1906, a number of express companies submitted forms of contract used by their respective companies with a request for their approval.

Upon an examination and consideration of these forms, the board decided to extend for six months from the said November 1, 1906, the time within which the

SESSIONAL PAPER No. 20c

forms previously in use could be used by express companies, or for carriage by express, and did extend the time as aforesaid by regulation dated November 13, 1906, with the qualification that the regulation should 'not have the effect of authorizing any company, person, or corporation, after approval of its or his tariffs of tolls by the board under the provisions of the said Act, to contract or collect in or under any transaction or contract any express toll or tolls within the meaning of the said section 27 higher than the toll or tolls set out in the tariffs so approved, applicable to such transactions or contract.'

Re Express Companies' Tariffs.

Section 27 of the Act, 6 Edward VII., chapter 42, amending the Railway Act, 1903, applies to tolls or charges for the carriage of express matter, either wholly or partly in Canada and between points in Canada and points in the United States by any one company, and the provisions of the Railway Act, 1903, with reference to joint tariffs, are applicable to tariffs of express tolls under the amending Act.

Chief Commissioner, November 29, 1906.

CLAIMS AGAINST RAILWAY COMPANIES.

The board has no jurisdiction to compel the railway company to pay for loss of cattle killed or injured by its trains, or for property burned by fires kindled by locomotives, as the statute expressly provides that relief in such matters is to be obtained by action in a court of competent jurisdiction. The board, however, has jurisdiction to compel the company to put in proper cattle-guards and highway approaches, where it is the company's legal duty to do so.

Chief Commissioner, November 30, 1906.

Re Rounding off Passenger Tolls.

Section 258 of the Railway Act, 1903, provides '.....; and in estimating the tolls to be charged in passenger tariffs, any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents by the company.'

The question was whether, when a special tariff is made up at a less rate per mile than the standard tariff rate, the railway company is obliged to apply the principle laid down in the part of the section quoted.

Chief Commissioner, December 3, 1906.

It does not appear to me that a railway company is so bound. Provided the standard rate is not exceeded and the clauses respecting discrimination and other provisions of the Act are not infringed, a special tariff may be made up either upon a uniform mileage rate or otherwise. Even if made up in general upon a mileage rate less than the standard rate, the company may violate that principle in some cases, and make the rates between certain stations upon another basis, arbitrary or otherwise.

I am, therefore, of opinion that a special tariff can be made without attention to the provisions of section 258, provided the fares are expressed in whole, not fractional multiples of 5 cents. For instance, if a special tariff is made up at a rate of 2 cents per mile for a line where the standard rate is 3 cents per mile, 25 cents may be charged, instead of 22 cents or 20 cents for a journey of 11 miles.

The Railway Act, 1903, does not empower the board to order or compel a railway company to construct a highway crossing over its railway where no highway has previously existed. The power of the board in such a case is merely to *give leave* for the construction of a highway across the railway; such leave may be given to the railway company, in which case it will be at liberty, but not obliged, to construct the crossing,

7-8 EDWARD VII., A. 1908

or leave may be given to the municipal, or other body, having authority to open up a highway across private property without the consent of the owner. In the latter case the railway company is no more under obligation to bear the expense than a private owner would be.

Chief Commissioner, December 3, 1906.

(*Re Neelon Highway Crossing.*)

Re James Bay Railway Company's Application to Cross Grand Trunk Railway Belt Line on Robert Davies' Property.

This application came before the board as the result of an agreement between the two companies made on the hearing of the two actions for injunction between the two companies in the High Court of Justice for Ontario. The agreement was that the James Bay Railway Company should apply to the board for leave to make the crossing, and that on this application the board was to decide 'which railway is bound to cross the other, and on what terms, and at whose expense the crossing is to be made.'

The evidence before the board showed that, before the lodging of the application and before the agreement for making it, the James Bay Railway Company had entered upon the property under a warrant of possession and constructed its track across the spur in question, although met with forcible opposition by the Grand Trunk Railway Company.

The board decided that it was unnecessary for the James Bay Railway Company to make any such application, and treated the track on the Robert Davies' property at the point of crossing as not being a railway line or track of another company within the meaning of section 177 of the Railway Act, 1903, but as being personal property, or, if real estate, as the property of Robert Davies, and made an order giving leave to the James Bay Railway Company to construct its line of railway across the spur track in question without putting in a diamond or otherwise providing for the operation of the spur by the Grand Trunk Railway Company across the line of the James Bay Railway Company, and without compensation to the Grand Trunk Company, thus leaving Davies to get such compensation as he might be entitled to under the Railway Act.

The Grand Trunk Railway Company applied to the board for leave to appeal from this order upon the following grounds:—

'1. That the tracks of the Grand Trunk at the point in question is a railway line of a company, for the crossing of which by the tracks of the James Bay, leave of the board is required under section 177 of the Railway Act.

'2. That leave of the board was not necessary in order to enable the Grand Trunk legally to construct (at the point of crossing) the line of railway in question.

'3. That the Grand Trunk Railway Company has an interest in the land at the point in question as against the James Bay, and the James Bay cannot legally use or occupy such land without the leave of the board.'

Judgment, Chief Commissioner, December 3, 1906.

Held, that if these questions or one of them should be answered in the affirmative, the James Bay Railway Company could not lawfully have placed its tracks over the site of the spur in question without leave of the board, and that such leave would not have been given upon the terms embodied in the board's order. Either a diamond should have been inserted, and the proper method of protection at the crossing determined, or some compensation should have been awarded under section 137 of the Railway Act, 1903.

Leave to appeal upon the following grounds granted:—

1. Did the railway tracks from and connecting with the Belt Line railway constitute, where such tracks crossed the approved location of the James Bay Railway over Robert Davies' property, a railway line or track of a company, leave to cross

SESSIONAL PAPER No. 20c

which by the line of the James Bay Railway Company was required under section 177 of the Railway Act, 1903?

2. Could the Grand Trunk Railway Company of Canada legally construct the said railway tracks on Robert Davies' property at the point of crossing by the James Bay Railway Company, without the leave of the board?

3. Had the Grand Trunk Railway Company, when the James Bay Railway Company constructed its line of railway across the said railway tracks on Robert Davies' property, such an interest in the land occupied by such railway tracks at the said point of crossing as against the James Bay Railway Company that the James Bay Railway Company could not lawfully use or occupy such land without the leave of the board?

Re Canadian Pacific Railway Spur to Great West Development Company's Premises, Winnipeg.

Judgment, December 5, 1906.

Chief Commissioner:

The Canadian Pacific Railway Company should be asked for some evidence that the proposed spur is necessary in the public interest, or for the purpose of giving increased facilities to business. (Under subsection 4 of section 175 of the Railway Act, 1903).

Where a body like a city or town consents to the construction of a spur line, the board frequently takes this as sufficient, or it may consider that the nature of the locality to be served, or some other circumstances, afford sufficient *prima facie* evidence to satisfy the statute. In the present case there is nothing. We do not know what the Great West Development Company is. It may be only a speculative real estate company; and as the city of Winnipeg does not consent and shows some reluctance to consent to the construction of the spur, there should be some evidence to satisfy the statute.

Station Sites.

By section 256 of the Railway Act, the location of station must be approved by the board, and in case of a railway which, since July 18, 1900, has been granted a subsidy in money or land by the parliament of Canada, the railway company is required to maintain and operate a railway station or stations, with such accommodation or facilities therewith as are defined by the board, at such point or points on the railway as are designated by the board's order; and in any case, every station of a railway company is required to be erected, operated, and maintained with good and sufficient accommodation and facilities for traffic, a provision which, under its general jurisdiction, the board is authorized to enforce.

The view the board has taken is that the approval by the board of location plans which appear to leave spaces for station sites, does not satisfy the provisions referred to, requiring that the locations of stations be approved by the board, but there must be separate orders expressly approving such sites.

Chief Commissioner, February 11, 1907.

Re Jacob Wright's Farm Crossing.

This was an application by Jacob Wright for a farm crossing over the line of the Canada Southern Railway Company on lot 29, concession 5, in the township of Enniskillen, in the county of Lambton, Ontario.

Wright is the owner of lands on both sides of the railway. The engineer of the board reported that the applicant had no farm crossing and that the only way to reach the portion of his land lying to the north of the railway was by way of his neighbour's lands, north of the concession line, necessitating a long and out of the way route.

It appears that when the railway was built the lands were owned by the Crown, but were subsequently surveyed and sold to the original owners. The contention of

7-8 EDWARD VII., A. 1908

the railway company is that the lands were surveyed and obtained before the construction of the railway, but that the right of way across the lot was conveyed to the company without reservation before Wright acquired the land on each side of the railway; that under its original Act of incorporation it was not bound to grant farm crossings to the owners of lands adjacent to its right of way; that the subsequent legislation does not impose upon the company that liability; and that, while not admitting the jurisdiction of the board to require the making of the farm crossing for the applicant, the company expresses its willingness that such an order be made upon the terms of the applicant bearing the cost of construction and maintenance and paying such sum as the board thinks reasonable and proper for the privilege, taking into consideration the attendant liabilities in connection therewith.

In the similar case of the *Ontario Lands and Oil Company v. Canada Southern Railway Company*, 1 Ontario L. R. 215, Meredith, J., decided that the railway company was not bound, under its Act of incorporation and the general Railway Act in force when the railway was built, to grant farm crossings, and that the Dominion Railway Act of 1888, which was enacted after the construction of the company's railway, did not apply to cases in which the railway had been previously constructed on land conveyed to the company and the owner of adjoining land had purchased subsequently to such conveyance, as, in his opinion, the railway could be said to be carried over the land of a person where such person did not acquire the property until after the railway was constructed.

Chief Commissioner:

I agree with Meredith, J., in thinking that the decision of the Supreme Court of Canada, in *Vezina v. the Queen*, 17 S.C.R. 1, conclusively established that, under the general Railway Act in force when the Canada Southern Railway Company was incorporated and when its line was constructed, a company was not bound to grant farm crossings over its line where a right thereto was not reserved in the grant or otherwise agreed to by the company; and I am also of opinion, with him, that where, prior to the passing of the Act of 1888, a person had acquired lands on opposite sides of a railway across which his predecessor in title had the right of way of crossing, the Act of 1888 did not operate to give that right to the new owner. In my opinion, also, the Act of 1888 cannot properly be construed retroactively so as to apply to a railway previously constructed on lands vested absolutely in the company. Section 190 of the Act of 1888 provided—as did section 198 of the Act of 1903—that ‘every company shall make crossings for persons across whose lands the railway is carried, convenient and proper for the crossing of the railway,’ &c. According to my interpretation, this provision is applicable only to cases in which the railway has been carried across a person's land since the enactment of the Act of 1888. I have formed this opinion after consideration of the jurisprudence in the province of Quebec, and particularly the cases of *Bolduc v. Canadian Pacific Railway Company*, Q.R. 23 S.C. 238, the *Grand Trunk Railway Company v. Huard*, Q.R. 1 Q.B., 501.

For the purposes of the application, therefore, it does not appear material to ascertain whether the railway was constructed before or after the grant from the Crown. I think that the applicant has no absolute legal right to the crossing, and that it can be granted by the board only in the exercise of the discretion given by section 253 of the Railway Act (subsection 2 of section 198 of the Railway Act, 1903), which provides as follows: ‘.’

Under the report of the engineer I think that we may properly find that the crossing is necessary for the proper enjoyment of the applicant's land on either side of the railway, and that it would be safe in the public interest; but as such an order is one to which the applicant is not entitled of right, and as it would have the effect of creating an easement over property which belongs absolutely to the railway company, and would involve some danger to the company's trains, any expense of construction and maintenance should be borne by the applicant, and the company should receive reasonable compensation.

Deputy Chief Commissioner Bernier expressed the view, in which Mr. Com-

SESSIONAL PAPER No. 20c

missioner Mills concurred, that the railway company should undertake to open, construct and maintain a farm crossing at its own expense; and under the ruling of the Chief Commissioner that the board has jurisdiction to make an unconditional order requiring the railway company to construct the farm crossing in question, although he did not depart from his previously expressed opinion, the order issued February 15, 1907.

The reports of the officers of the board should not be made public without special order of the board.

Chief Commissioner, February 26, 1907.

Judgment in concurrence, Mr. Commissioner Mills.

From the report of an engineer of the board in this case, it seems clear that Mr. Wright's application for a farm crossing should be granted; and the only question is, at whose expense is the crossing to be made and maintained.

After full consideration of the principle involved and its wide application to Crown and Company lands in the western provinces and elsewhere, I am of the opinion that farm lands everywhere, actually occupied or to be occupied, carry with them the right of free passage (saving natural obstacles) from any one part of a lot to any other part of the same lot, which lot is or is to be occupied and worked as a farm; and that when a railway company or other corporation, for its own purposes and advantages, infringes upon this natural and fundamental right, it should do so with the clear understanding that it will, when constructing its line or at some later date, be compelled to provide and thereafter maintain, at its own expense, at least one adequate and satisfactory farm crossing on every lot or farm which it crosses.

Therefore, I concur in the judgment of the Deputy Chief Commissioner, that the Michigan Central Railway Company, as the successor of the Canada Southern Railway Company, should provide and maintain, at its own expense, an adequate and satisfactory farm crossing, at a point to be agreed upon, on the farm of Jacob Wright, known as lot 29, con. 5, in the township of Enniskillen, county of Lambton, Ont.

February 15, 1907.

Re Complaint of the Dominion Concrete Company, Limited.

This company applied for an investigation by the board into the matter of the Canadian Pacific Railway Company's rate of 12 cents per hundred pounds on concrete blocks from Kemptville, Ont., to Graham station, a distance of 107 miles, as against a rate of 6½ cents per hundred pounds on brick, and alleging an unjust discrimination in favour of the latter commodity and against the former.

This matter was taken up by the chief traffic officer of the board, and after considerable correspondence with the railway company the rate on concrete was reduced and made satisfactory to the complainants. After the lower rate had gone into effect complainants claimed to be entitled to a refund of the difference between the higher and the reduced rate. The railway company refused to recognize any such claim and the complainants applied to the board for an order directing a refund.

Judgment, Chief Commissioner, March 5, 1907.

Under the Railway Act a railway company is required to obtain approval of what are called standard tariffs, specifying the maximum mileage rates at which the company is authorized to charge, and upon approval of such tariffs, the company is authorized to charge the rates set out therein, unless it files special tariffs giving lower rates than those in the standard tariff; and section 327 of the Railway Act provides that, when a railway company's standard freight tariff has been approved and published, the tolls specified therein—except where other tolls are provided for by special or competitive tariffs—are the only tolls which the company is authorized to charge for the carriage of goods; and, by section 401 of the Railway Act, 'any person or company, or any officer or agent of any company, (a) who shall offer, grant, or give, or shall solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic shall, by any device whatsoever, be transported at a less rate than that named in the tariffs

SESSIONAL PAPER No. 20c

then in force shall for each offence be liable to a penalty not exceeding one thousand dollars and not less than one hundred dollars.' The authority of the board to deal with tolls and tariffs, as set out in section 323 of the Railway Act, is as follows: 'The board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

'2. The board may designate the date at which any tariff shall come into force.'

Held, that this does not empower the board to make a retroactive alteration in a tariff which is not contrary to any of the provisions of the Railway Act, so as to apply the alteration to past transactions; and that the railway company is not entitled to make rebates from tolls which have been charged in accordance with the tariffs lawfully existing when the transportation took place.

Held, further, that the board has no authority to direct the Canadian Pacific Railway Company to refund any portion of the tolls charged by it under the tariffs existing before March 20, 1906.

A later application was made by complainants against this ruling of the board, and it was argued that as the board had power to designate the date at which any tariff should come into force, this could be done so as to give the same a retroactive effect.

Held, Chief Commissioner, March 20, 1907, that the power of the board to designate the date at which a tariff shall come into force does not enable the board to give such tariffs a retroactive effect, and to make them applicable to prior shipments.

Discrimination.

Railway companies have no right to discriminate in regard to passenger rates as between passengers arriving at Canadian ports by different steamers. By section 315 of the Railway Act tolls are required, under substantially similar circumstances and conditions, to be charged equally to all persons and at the same rate in respect of all traffic of the same description, and carried in or upon the like kind of cars, passing over the same portion of the line of railway; and that no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any person or company travelling upon or using the railway.

Chief Commissioner, March 7, 1907.

(Immigrant Passenger Tariffs.)

Re Complaint Brown Brothers Company v. Canadian Northern Railway Company.

The complainants alleged that on May 2, 1906, they delivered to the Canadian Northern Railway Company at Warman, Alberta, two boxes of nursery stock, consigned to L. H. Daly, of Vegreville, Alberta, and that the shipment proved a total loss to them, occasioned by the neglect or refusal of the railway company to carry and deliver the traffic without delay.

It appeared from the answer filed on behalf of the railway company to this complaint that a period of fifteen days had elapsed from the time of receipt at Warman Junction until their arrival at Vegreville, a distance of 262 miles, and the railway company was advised that the board felt that, under the circumstances, it should take into consideration the Brown Brothers Company's claim for damages, and that such steps should be taken as would prevent the recurrence of such delays.

Held, Chief Commissioner, March 12, 1907, that, under the Railway Act, the board has no power to award compensation to parties for delays in forwarding traffic, as the Act expressly provides that the remedy is to be had by action in the ordinary courts; that the function of the board is to require the furnishing of accommodation and the forwarding of traffic without delay, while the circumstances admit of the board interfering; but that, in case of a transaction which is closed, the board can

SESSIONAL PAPER No. 20c

only deal with it as showing the necessity for action to prevent such delays in the future.

Re Complaint of Canadian Cannery, Limited.

This was a complaint by the Canadian Cannery, Limited, that the Canadian Pacific Railway Company charged a rate of 33 cents per 100 lbs. on a carload of canned goods shipped from Wellington, Ontario, to Sturgeon Falls, Ontario; or 4 cents per 100 lbs. more than the combination of the local rates from Wellington to North Bay and from North Bay to Sturgeon Falls.

Upon the application of the complainants, the railway company refused to refund the difference between the published rate of 33 cents and the combination of local rates, on the ground that it would be illegal to protect other than the published tariff rate, namely, 33 cents per 100 lbs.

The application to the board is for authority to make the refund.

Judgment, Chief Commissioner, March 12, 1907.

Held, that, not only would the railway company be justified in refunding the difference between the 5th class rate from the point of shipment to Sturgeon Falls and the sum of the commodity rate to North Bay, and the fifth-class rate from North Bay to Sturgeon Falls, but that it ought to do so. The latter two rates are those of lawfully published tariffs; and a shipper has the right to the carriage of his traffic at the commodity rate to North Bay, and at the tariff rate from North Bay to Sturgeon Falls, although he consigns his shipment direct to Sturgeon Falls without mentioning the intermediate point.

It may happen that ignorant shippers will not be given this privilege, while those better informed will obtain it; but the informed shipper should not, on that ground, be refused the lower rate.

Re Somerset Bridge, Ottawa.

The city of Ottawa applied to the board for an order under sections 186 and 187 of the Railway Act, 1903, directing the Ottawa Electric Railway Company, the Grand Trunk Railway Company of Canada, and the Canadian Pacific Railway Company to submit a plan and profile for the purpose of widening the bridges and approaches thereto constructed by them at Somerset street, a public highway in the city of Ottawa.

The bridge in question spans the tracks of the Canada Atlantic Railway and the Canadian Pacific Railway at the western boundary of the city. The eastern approach and bridge proper lie within the city of Ottawa, the western approach within the village of Hintonburg. The Ottawa Electric Company, which is subject to the legislative authority of the parliament of Canada, owns and operates a street railway system in the city of Ottawa and its suburbs. The portion within the city was constructed and is operated under an agreement between the city and the company authorizing the company to exercise its franchises for the period of thirty years from August 13, 1893. By a later agreement between the electric company and the city, the city consented to the construction, maintenance and operation by the electric company of its railway upon and along Cedar street and other streets in the city, and by this agreement it was provided that nothing contained therein, or in the original agreement between the city and the company, or in the by-law of the City Council ratifying these agreements, should be 'construed to impose any liability on the corporation for the construction, repair, or maintenance of bridges on Cedar street, crossing Canada Atlantic Railway lines and the Canadian Pacific Railway lines, or any bridge or bridges that may be constructed in place of the same; or should be 'construed as an assuming by the corporation of the said bridges or either of them.'

The street referred to as Cedar street is the one now known as Somerset street, on which the bridge in question is situated.

7-8 EDWARD VII., A. 1908

By agreement between the Electric Railway Company, the Canadian Pacific Railway Company, and the Canada Atlantic Railway Company, for certain considerations therein named, the Electric Company agreed, from time to time and at all times thereafter, to 'indemnify and save harmless the railway company from and against all liability to maintain, alter, repair, or reconstruct the said bridge or the approaches thereto, and also from and against all claims for damages of every kind or nature whatsoever, or for any penalty imposed upon the said bridge or crossing, or the approaches thereto'; and further agreed that, if it should at any time become necessary to reconstruct the then existing bridge or to alter the same, plans of the said alteration or of the new bridge to be constructed should first be submitted to and approved by the railway company.

The substantial question for consideration was as to the body which should bear the cost of the alteration. The city, through its counsel, offered to bear one-fourth of the expense. The railway companies contended that, in view of their agreement with the Electric Company, and of the fact that the necessity for the widening of the bridge arises wholly from its use by the Electric Company, that company should bear the remaining portion of the expense.

Judgment, Chief Commissioner, March 13, 1907.

Held, that, as between the Electric Company and the two railway companies, the contention of the railway companies was correct, and that, as between the Electric Company and the city, the Electric Company should widen the bridge by sixteen feet according to the plans to be approved by the board, and that the city should pay the Electric Company one-fourth the expense involved in the addition.

Passenger Rates.

By order of the board, dated March 18, 1907, the Grand Trunk Railway Company of Canada and the Canadian Pacific Railway Company were directed to reduce the passenger rates for their lines east of and including the Calgary and Edmonton Railway, to three cents per mile.

Re the E. B. Eddy Company's Complaint.

This company has asked the board to give the Grand Trunk Railway permission to reduce its charges on certain traffic carried at the rate of 10 cents per 100 lbs. under the tariff in force at the time, to 8 cents per 100 lbs. subsequently substituted.

Section 327 of the Railway Act provides that, when a railway company's standard freight tariff has been approved and published, the tolls specified therein—except where other tolls are provided for by special or competitive tariffs are the only tolls which the company is authorized to charge for the carriage of goods. Section 401 imposes a penalty on any person or company, or any officer or agent of a company, offering, granting, giving, soliciting, accepting or receiving any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic shall, by any device whatsoever, be transported at a less rate than that named in the tariffs then in force; and section 402 makes it an offence in a company to depart from the tolls in a tariff then lawfully in force.

Judgment, March 18, 1907.

Held, that the Act gave the board no power to permit a departure from the lawfully existing tariffs in respect of past transactions, or to legalize rebates from the previously earned tolls specified in such tariff; and on this ground, I do not think that we should attempt to interfere. 'In the present instance an attempt to exceed the board's powers seems to be particularly objectionable, because the board would not be able to secure to others in a similar position the rebates which the Eddy Company desires, but by becoming a party to the rebate, it would facilitate an undue preference in favour of one shipper.'

Judgment in dissent, Mr. Commissioner Mills.

On October 16 and 17, the E. B. Eddy Company thought of shipping pulp for the

SESSIONAL PAPER No. 20c

manufacture of paper from Danville, Que., to Ottawa, Ont., and called the attention of Mr. Bremner, who represented the Grand Trunk in Ottawa, to the fact that the 10 cent rate quoted on pulp from Danville to Ottawa was prohibitive, and that they could not ship pulp from Danville to Ottawa at a higher rate than 8 cents per 100 lbs.

After considering the question, Mr. Bremner, on behalf of the Grand Trunk, advised the E. B. Eddy Company that the Grand Trunk would give the said company a rate of 8 cents per 100 lbs. from Danville to Ottawa. The Eddy Company accepted the 8-cent rate and notified Mr. Bremner that some cars were then being loaded; and Mr. Bremner says that the Eddy Company was then notified that the 8-cent rate would not apply on cars shipped prior to the date on which the tariff became effective. The correctness of this latter statement, the Eddy Company does not admit, but alleges that in good faith, without any doubt that the 8-cent rate would apply, it shipped five cars of pulp between the time that the 8-cent rate was announced and the publication of the tariff to that effect.

Subsequently the Grand Trunk Company rendered a bill for \$153.68, being an extra charge of two cents per 100 lbs. on six cars pulp shipped between the time of the announcement of the 8-cent rate and the publication of the tariff, 9 days later.

In reference to this account, the E. B. Eddy Company sets forth the following declarations and statements of opinion:—

It declares that it shipped five of the six cars in good faith after the reduction was announced, and had no doubt that the rate was to be 8 cents per 100 lbs.

It expresses the opinion that nine days was altogether too long a time to take in issuing the tariff, and directs attention to the statement of the chief traffic officer that the said tariff could have been issued much sooner, if it had been done in the way which is usual when it is known that cars are loaded or being loaded and waiting for shipment.

It calls attention to the fact that the application of the 8-cent rate from the date of the announcement would not involve a discrimination against any one.

And it further alleges that the Grand Trunk is willing to withdraw or cancel this account for extra charges over and above the 8-cent rate, if the Railway Commission will allow it to do so.

I think the intention of parliament, as expressed in section 401 of the Railway Act, was to prevent all kinds of *discrimination*—not to compel a railway company to continue charging an admittedly unreasonable or prohibitive rate until such time as it can conveniently prepare and issue a new tariff, when the said company is willing to make a reduction in such unreasonable or prohibitive rate as soon as its attention is called to the matter (before a change in the tariff is made)—provided such reduction is made with the knowledge of the Railway Commission and manifestly *without discrimination* against any one.

Such a reduction, under such circumstances and conditions, the Grand Trunk Railway Company announced its willingness to make in the published tariff rate on pulp from Danville, Que., to Ottawa, Ont.; and under such circumstances, I think the board should allow the said railway company, without injury to or discrimination against anyone, to apply its 8-cent reduced rate from the time when it announced its intention to make the reduction from 10 to 8 cents per 100 lbs.

March 8, 1907.

Re Application of the Toronto, Hamilton and Buffalo Railway Company, under section 175 of the Railway Act, 1903, for leave to construct a branch from its main line in the city of Hamilton to the works of the Canadian Westinghouse Company.

The projected line would cross Sherman avenue south of Princess street and run thence, approximately, parallel to and about 125 feet south of, that street, and parallel to, and some 350 feet south of, the line of the Grand Trunk Railway Company crossing at grade, between certain points, the line of the Hamilton Radial Electric Railway

7-8 EDWARD VII., A. 1908

Company and curving northerly, about Fullerton avenue, a short distance from the Westinghouse Company's works.

Objection was made to this line by the residents of the locality west of Sherman avenue and between the proposed line and that of the Grand Trunk Railway Company, on the ground that it would be very injurious to them that their properties should be inclosed within a strip bounded by two lines of railway; and the Radial Company objected to a crossing of its line at grade. The Grand Trunk Railway Company also objected to the use of any portion of its right of way for the proposed branch.

Judgment, Chief Commissioner, March 28, 1907.

I am of opinion that it would not be reasonable to compel the Grand Trunk Railway Company to allow such a use of its land at that point.

I am also of opinion that it would not be proper to allow the construction of the branch beyond Sherman avenue south of Princess street. This would leave a strip of property about fifteen hundred feet long by three hundred and fifty feet in width between two lines of railway. At the present time the property between Sherman Avenue and the Westinghouse Company's property is wholly residential, and even though the proposed branch were simply to be used as a spur line for access to the Westinghouse Company's works, it would be highly injurious to the residents of such a strip. It may be that circumstances will lead to the strip becoming eventually a manufacturing locality; but, unless it is sufficiently important, the residents should not be forced to this result.

On behalf of the city of Hamilton, objection is made to the proposed lowering of the radial railway, as this would involve the lowering of Princess street below a large existing sewer, and in such a manner as would injure Princess street for public travel.

While one or more industries are to be served east of Sherman avenue, the extension beyond that is for the purpose of giving access to the Westinghouse Company's works only. If that company did not object, it would be possible to carry the line along that of the Grand Trunk Railway directly into the Westinghouse Company's premises. Doubtless it will be of great value to that company to have the additional railway connection and service, but it has already connection with the line of the Grand Trunk Railway, by means of which traffic can be transferred to and from the line of the Toronto, Hamilton and Buffalo Railway.

No public interests are involved, and it does not appear to me that the residents of the locality should be compelled to submit to the injury that would be done their property or that the Radial Company should have its line crossed at grade in order to enable the Westinghouse Company, which desires this railway communication, to procure it without injury to its own buildings or premises.

Held, Commissioner Mills dissenting, that the application for leave to construct the spur line on the route proposed should be refused, but that authority should be granted, if the applicant company desired, to construct a branch line with the diversion northwesterly over Sherman avenue to the south of the Grand Trunk Railway Company's right of way, and thence parallel thereto over the radial railway to Rosedale avenue, and to take it directly into the Westinghouse Company's premises, or have it connected with the Grand Trunk Railway tracks, as might be arranged, or that leave should be given for the construction of any portion of the line which might be desired.

Re Cedar Dale-Oshawa Crossing.

This was an application by the Police Village of Cedar Dale for an order directing the Grand Trunk Railway Company of Canada to provide better protection where its railway crosses Simcoe street, in the said village.

There was at the same point an electric railway crossing the Grand Trunk Railway, with interlocking appliances operated by the electric company, and the board, by its order of December 19, 1906, directed that the gates be interlocked with those appliances and be operated by the signalman stationed in the tower, and that the Grand Trunk Railway Company should bear the expense incident thereto over and

SESSIONAL PAPER No. 20c

above the expense to which the electric company was subject. The board also directed that an electric light should be provided and maintained by the village at the crossing.

Simcoe street, over which the Grand Trunk Railway Company crosses, is a continuation of a street of the town of Oshawa, but the point of crossing is outside the limits of the town. Counsel for the town supported the application for the order, and took part in the examination of witnesses. Among other things, he said: 'This corporation is interested in having the lives of the citizens protected—their lives and property—and would urge upon the commissioners as strongly as possible the propriety of providing such protection as may be thought proper.' And after reference to the probable expense of a subway, he said: 'But all the other protection that could be afforded would be urged by this corporation.' Further he said: 'The town council do not see that they should be called upon to contribute. They contribute an immense amount of business to the railway.'

In announcing to the parties its conclusions, the board expressed doubt whether the town could be considered interested so as to be liable to be made a contributory to the cost of protection of the crossing, and intimated that, if the railway company should be of opinion that the town was so liable, the board would like to be furnished with references to any statutory provisions imposing on the town or bestowing on it any rights with respect to a highway outside the boundaries of the town; and it also stated that it considered that the village of Cedar Dale was not in such financial position that it should be asked to contribute, except by providing and maintaining a light at the crossing.

The Grand Trunk Railway Company then applied to have the order varied so as to apportion the cost of the installation, operation and maintenance of the gates equally among the town of Oshawa, the village of Cedar Dale and the railway company, claiming that the town was interested in the matter and should be compelled to contribute, and that the weak financial position of the village was no sufficient ground for exempting it.

This latter application was heard before the board. In support of the claim of interest on the part of the town, reference was made to the position taken by the counsel for the town at the previous hearing, and to the case of the Grand Trunk Railway Company *v.* City of Kingston, 8 Ex. C. R. In that case an application was made to have certain orders of the Railway Committee of the Privy Council made rules of the Exchequer Court. By these orders, the city of Kingston was directed to contribute to the expense incident to the construction of a subway for carrying a highway under the Grand Trunk Railway outside of the city limits; and objection was made to the authority of the Railway Committee to impose this condition. The learned judge of the Exchequer Court was of opinion that he had no authority to review the decision of the Railway Committee upon the merits, or its method of procedure. He said: 'Was the city of Kingston interested in the works that were directed to be done? If that question is answered in the affirmative, the Railway Committee had jurisdiction to make the orders as amended. If it is answered in the negative, then the committee had no jurisdiction to impose upon the city of Kingston the obligation to bear any part of the cost of such works. I think the question should be answered in the affirmative. Although the works directed to be carried out are not within the limits of the city of Kingston, they are in close proximity thereto, and are intended to protect the public from danger of crossing the Grand Trunk Railway by a level crossing on a road that, within a short distance from the crossing, connects with one of the city streets. In addition to this, it appears that the city of Kingston was one of the movers in the application to the Railway Committee for an order to have the works in question undertaken; and it seems to me that one could not now, with fairness, say that the city of Kingston was not interested therein.'

In *re* Canadian Pacific Railway Company and county and township of York, 27 O.R. 559; 25 O.A.R. 65, Mr. Justice Rose upheld the validity of an order of the Railway Committee under which the city of Toronto, the county of York, and the township of York were directed to contribute to the cost of installing and maintaining

7-8 EDWARD VII., A. 1908

gates and a watchman for the protection of a highway crossing which was in the township of York and outside the limits of the city of Toronto. The order of the Railway Committee had been made upon the application of the city of Toronto. The county and township of York appealed from the judgment. Burton, C.J.O., and Mac'ennan, J., were of opinion that the order was invalid in so far as it imposed a burden upon the township and county. Osler, J., held that the township and county were 'persons interested' within the meaning of the Railway Act, and subject to the jurisdiction of the committee. Meredith, J., held that, as the road was not a county road, and the county was under no responsibility for its maintenance, it could not be considered to be interested so as to be liable to the order of the committee.

The city of Toronto did not appeal, and it does not appear to have been represented before the Court of Appeal. As the original applicant for the order, it could hardly be said that it was not interested.

Chief Commissioner:

In the two cases referred to, the courts were called upon to enforce orders made by the Railway Committee. They could not review the decisions of the committee upon the facts. If there was before the committee any evidence that the parties ordered to contribute were 'interested' within the meaning of the statute, the jurisdiction of the committee to make the orders could not be disputed.

In the present case this board is the court of original jurisdiction which has to decide for itself, not merely the question of law, but also the question of fact, as regards interest, and further, whether, in the exercise of its discretion, it considers that the town should justly and properly be made to contribute to the cost of protecting the crossing in question.

I think that it cannot properly be said that, as a matter of law, there is not some evidence of interest on the part of the town which would support an order of the board against it, particularly in view of the direct claim of interest on the part of counsel representing the town. But it does not appear to me that the town is necessarily bound by the admission of some interest, having in view the circumstances and the nature of the interest admitted. The town corporation is a statutory body. It has no duty to maintain highways outside of the town limits, or to preserve them from obstruction. It is not authorized to expend the moneys of the town upon such highways. As a public body, having in view the interests of the citizens, a town council often interests itself in many matters of public importance not directly coming within its functions. Naturally the safety of citizens of the town travelling along the highway and over the crossing in question is looked upon by the council as of public interest; but it does not appear to me that, on that account, the municipal corporation can be said to have any legal interest in the matter of protecting the crossing. The individual interests of citizens having occasion to use the highway are not, in my opinion, ascribable to the corporation, and the admission of the counsel for the town, and the part which he took in supporting the application, do not appear to me to carry the matter farther or to constitute such an admission or evidence of interest as to warrant the board in finding as a matter of fact that there was such interest.

I think, therefore, that the town should not be ordered to contribute to the expense of erecting, maintaining, or operating the gates.

As regards the village of Cedar Dale, the matter stands in no different position from that presented at the original hearing. I do not think that the board should be called upon in such a case to revise its previous decision, where no new facts have been presented and no material point was previously overlooked. In making the order the board expressed its doubt upon the question of making the town a contributory. That question was fairly open for reconsideration.

In my opinion the application should be dismissed, and the railway company should be ordered to pay to the village a reasonable sum for costs of the application to vary the order. In view, however, of the state of the previous decisions and of the position taken upon the hearing by the town, I do not think that the railway company should be made to bear any portion of the costs of the town.

SESSIONAL PAPER No. 20c

Order dated May 23, 1907, issued accordingly. Costs of the application fixed at the sum of \$25.

Re St. John Ice Company complaint.

This was a complaint by the St. John Ice Company alleging that the New Brunswick Southern Railway Company were acting illegally and in violation of the provisions of the Railway Act by

1. Billing cars at 20,000 lbs. which contained 40,000 to 50,000 lbs. actual weight.
2. Billing cars at 2 cents per 100 lbs. contrary to C.R.C. No. 1, their standard tariff, which names $2\frac{1}{2}$ cents per 100 lbs.
3. Billing cars at 20,000 lbs. contrary to the Canadian freight classification, which specifies 30,000 lbs. as minimum carload weight.
4. That through W. E. Scully, their agent at West St. John, passing and billing as 20,000 lbs. cars which W. E. Scully as 'The Union Ice Company' had sold and delivered as 50,000 lbs.
5. Misrepresenting the existing tariff charges in the following way: in December last past, their general freight agent, Mr. D. W. Wetmore, quoted as their current rate on ice from Spruce Lake to West St. John 2 cents per 100 lbs., minimum carload weight 30,000 lbs., when he must have known that tariff C. R. C. No. 2, giving a rate of 2 cents per 100 lbs. had been cancelled and that $2\frac{1}{2}$ cents per 100 lbs. was the legal rate, as per tariff C. R. C. No. 1.
6. Through the collusive action of its officials violating the established tariffs, inasmuch as P. W. Wetmore, the accountant, who was also general freight agent, passed entries and way-bills, certified by him and F. J. McPeake, the superintendent, to the auditor, showing carload weights 20,000 lbs. when actually they were from 40,000 to 50,000 lbs, showing a total freight per car of \$4 had been collected when it should have been from \$10 to \$12.50 per car.

And applied, under section 60 of the Act, for an order for inquiry into the management of the said railway company, and for investigation of the complaints hereinbefore recited against the company and its officials.

Hearing at St. John.

Ordered, that leave be granted the complainant company to institute proceedings, under sections 399, 401 or 402, of the Railway Act, against the company for suffering or permitting

(a) W. E. Scully to obtain transportation for goods at less than the required toll then authorized and in force on the railway of the company.

(b) For transporting goods for the said W. E. Scully; and for suffering and permitting W. E. Scully to obtain transportation for such goods at less than the regular tolls then authorized and in force on the railway in violation of the provisions of the Railway Act.

Later, application was made, on behalf of the complainants, for a certified copy of this order, in order that the same might be made a rule of the Supreme Court under section 46 of the Railway Act.

Section 46 provides that any decision or order made by the board may be made a rule, order or decree of the Exchequer Court, or of any Superior Court, in any province of Canada.

Subsection 2 of that section reads:—

'2. To make such decision or order a rule, order or decree of any such court, the usual practice and procedure of the court in such matters may be followed; or in lieu thereof, the secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chief Commissioner and sealed with the official seal of the board.

7-8 EDWARD VII., A. 1908

'To move to make the within a rule (order or decree, as the case may be) of the Exchequer Court of Canada (or as the case may be).'

Application refused.

Held, Chief Commissioner, that, in the first instance, the usual practice and procedure of the court in such matters should be followed; that the other alternative provided under this section is intended rather for a case where the board is itself seeking to enforce one of its own orders, that is to say, an order where the board has taken the initiative.

APPENDIX E.

INFORMAL COMPLAINTS FILED WITH THE BOARD
DURING THE YEAR ENDING MARCH 31, 1907.

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INFORMAL COMPLAINTS FILED WITH THE BOARD DURING THE
YEAR ENDING MARCH 31, 1907.

1. Complaint against Wabash Railroad in making allowance to consignees for teaming beer from station to warehouse for distribution through the trade.
2. Excessive rates of Père Marquette Railroad charged Ridgetown Milling Company, on grain.
3. Excessive charges of Kaslo and Slocan Railway on zinc ores shipped by Canadian Metal Company between Kaslo and Sandon, B.C.
4. Discrimination in freight charges of the Canadian Pacific Railway on shipments of the Harris Abattoir Company, Limited.
5. *Re* Demand made by Canadian Pacific Railway for payment of advance charges on shipments of butter.
6. Condition of platform and crossing of the Canadian Northern Railway in the village of Togo, Saskatchewan, District No. 14 A.
7. Delay to carload of lambs shipped from Chatsworth, Ont., to Buffalo, N.Y.
8. Shortage of cars for movement of wood shipments via Canadian Pacific Railway from St. Gabrielle de Brandon, Que.
9. Excessive rates on cement shipments via Grand Trunk Railway from Hanover to Durham, Ont.
10. Lack of proper station facilities at Bowsman, Manitoba, on Canadian Northern Railroad.
11. Poor train service of Inverness Railway and Coal Company at Inverness, Nova Scotia.
12. Objection to raising of track of the Grand Valley Railway along Water street, in Galt, Ont.
13. Inadequate train service of the Grand Trunk and Wabash Railways at Middlemiss, Ont.
14. Poor train service on Melfort branch of the Canadian Northern Railway.
15. Excessive switching charges by the Père Marquette Railway on shipments of salt ex Windsor to Walkerville, Ont.
16. Excessive rates of the Grand Trunk Railway on shipments of corn from Windsor to Halifax, N.S.
17. *Re* Minimum weight demanded by railways on stock shipments in carloads.
18. Unjust discrimination in rates on oil shipments from Windsor and Walkerville, Ont., to Montreal, Que.
19. Excessive freight rates charged by the Grand Trunk and Canadian Pacific Railway Companies on shipments of beer from Walkerville, Ont.
20. Excessive rates of railways on shipments of stoves from Sarnia, Ont., to Manitoba.
21. Inadequate mail service furnished by the Grand Trunk Railway to Parry Sound, Ont.
22. Dangerous crossings of the Grand Trunk Railway at Oakville, Ont.
23. Excessive rates on wall paper shipments from East Toronto, Ont., by Grand Trunk and Canadian Pacific Railway Companies.
24. Overcharge on car of wheat shipped via Canadian Pacific Railway from Spring-side to Fort William, Ont.
25. Excessive rate on lumber shipped via Grand Trunk Railway from Pembroke, Ont., to Howick, Que.

7-8 EDWARD VII., A. 1908

26. Unjust discrimination of Canadian Pacific Railway in car supply from White-mouth, Manitoba.

27. Excessive rates on salt shipments via Canadian Pacific Railway from Fort William, Ont., to Treherne, Manitoba.

28. Loss of hay through flying sparks of engine of Canadian Pacific Railway at Grayson, Sask.

29. Failure of Canadian Pacific Railway to furnish crossing near Grayson, Sask.

30. Excessive freight rates of Canadian Pacific and Canadian Northern Railway Companies on shipments from Prince Albert to Warman and Battleford, Sask.

31. Burning of fences near Snelgrove, Ont., on line Canadian Pacific Railway.

32. Insufficient fencing and unsatisfactory farm crossing provided by James Bay Railway on lots 28 and 29, concession 6, township of McDougall, district of Parry Sound, Ont.

33. Excessive freight rates of the Canadian Pacific Railway Company on shipments of the Canadian Newspaper Syndicate from Montreal, Que., to Vancouver, B.C.

34. Condition of railway crossings of the Canadian Pacific and Canadian Northern Railway Companies in the municipality of Portage la Prairie, Manitoba.

35. Excessive rates of the Canadian Pacific Railway Company on shipments of coal to Sutcliffe, Moir Milling Company, Moosomin, Sask.

36. Unfair rates charged by Canadian Pacific Railway Company on shipments of settlers' effects to Earl Grey, Saskatchewan, as compared with the rates to Prince Albert, Sask.

37. Location of the water tank of the Guelph and Goderich Railway at Lynwood, Ont.

38. Insufficient protection furnished by Toronto, Hamilton and Buffalo Railway at crossings in the town of Thorold, Ont.

39. Insufficient protection furnished by the Grand Trunk Railway at crossings in the town of Thorold, Ont.

40. Loss of J. Donohoe through cow killed on tracks, Canadian Pacific Railway.

41. Excessive rate on two cars of lumber shipped from Blackfalds to Vermilion, Saskatchewan.

42. Insufficient accommodation provided by Canadian Pacific Railway on shipments of hogs from the maritime provinces to Montreal, Que.

43. Excessive delay in transportation of shipment consisting of electric arc light from Grand Forks to Greenwood, British Columbia.

44. Overcharge of the Canadian Pacific and Canadian Northern Railways on a car-load of settlers' effects from Boston, Mass., to Vermilion, Alta.

45. Condition of the Grand Trunk Railway subway east of the quarter town line in the township of East Oxford, Ont.

46. Inadequate passenger train service of the Canadian Pacific Railway from St. Thomas, Que., Joliette county.

47. Excessive passenger rates on Canadian Pacific Railway from Prescott to Ottawa, Ont.

48. Inadequate facilities furnished by the Kingston Pembroke Railway on shipments of export ore made more from the feldspar mines to Kingston, Ont.

49. Condition of bridge on the Grand Trunk Railway near Blue Lake and at the side road west of Paris, Ont., municipality of South Dumfries.

50. Drainage of the Canadian Pacific Railway, township of Chatham, county of Argenteuil, Que., along its branch line to Brownsburg quarries.

51. Insufficient cattle pass provided by Niagara, St. Catharines and Toronto Railway on property of Isaiah Hansler at lot 125, school section 7, township of Thorold, Ont.

52. Cancellation of tariff W. 273 of Canadian Pacific Railway, complaint of the Porto Rico Lumber Company, province of British Columbia.

53. Excessive rates on branch lines of railways in the province of Alberta. Complaint of Alberta Farmers' Association.

SESSIONAL PAPER No. 20c

54. Excessive delay in delivery of goods via Canadian Pacific Railway from western points to Davidson, Sask.

55. Loss of horses by J. H. Holmes, on lot 20, concession 1, township of Kinloss, county of Bruce, Ont., on account of alleged poor cattle-guards on the Grand Trunk Railway.

56. Location of Canadian Northern Railway through lots 15 and 16, concession 1, township of Clarence, county of Russell, Ont.

57. Excessive freight rates of Canadian Pacific Railway from Ontario points to Strasburg, Sask.

58. Location of Quebec, Montreal and Southern Railway in parish of Longueuil, Que.

59. Insufficient supply of cars by Grand Trunk and Canadian Pacific Railways on shipments of brick from Hyde and Webster, Casselman, Ont.

60. Blocking of street crossings in town of Blenheim, Ont., with cars of Père Marquette Railroad.

61. Failure of Canadian Northern Railway to deliver shipment of household effects consigned to Maymont, Sask.

62. Excessive freight rates on coal shipped from Rouse's Point, N.Y., consigned to Casselman, Ont.

63. Inadequate accommodation furnished the residents at O'Connor, Ont., by Canadian Northern Railway.

64. Unsanitary conditions prevailing and inadequate accommodation provided by railways at station in Canada. Complaint of Dominion Commercial Travellers' Association.

65. Refusal of Père Marquette Railroad to carry shipments of fruit from Ruthven, Ont., on certain trains.

66. Dangerous crossing of the Grand Trunk Railway in the township of Darlington, Ont., between lots 18 and 19.

67. Loss of baggage forwarded from Montreal, Que., to Maymont, Sask., via Canadian Pacific and Canadian Northern Railways.

68. Removal by Grand Trunk Railway of station platform at Alma, Ont.

69. Overcharge by Grand Trunk Railway on carload of shingles consigned from Fenelon Falls to Toronto, Ont.

70. Non-delivery of shipment of nursery stock from Brown's nurseries, Ont., forwarded via Canadian Northern Railway from Warman to Vegreville, Alberta.

71. Delay in handling of fruit traffic via Grand Trunk Railway from Toronto to Winnipeg, Man.

72. Excessive freight rates of Canadian Pacific Railway on shipments of Robert McKinney from St. John to Rolling Dam, New Brunswick.

73. Excessive freight rates of Grand Trunk Railway on logs and lumber consigned to Renfrew, Ont., from points east of Rainy Lake, Ont.

74. Demurrage charges assessed by Canadian Pacific Railway on shipment of arc lamps to British Columbia Copper Company.

75. Failure of Canadian Pacific and Grand Trunk Railways to provide proper train connection at Caldwell Junction, Ont.

76. Poor facilities provided by Canadian Northern Railway at Shortdale, Man., for loading of lumber.

77. Excessive whistling of locomotives of Canadian Pacific and Grand Trunk Railways when passing asylum for insane at London, Ont.

78. Excessive rates of Canadian Pacific and Crow's Nest Southern Railways on traffic consigned to Fernie, British Columbia.

79. Excessive freight charges Grand Trunk Railway Company on coal to Vars, Ont.

80. Closing of station and failure of Grand Trunk to stop trains at Fort Erie (Amigari), Ont.

7-8 EDWARD VII., A: 1908

81. Excessive freight rates of railways from Eastern Township points and Shawinigan Falls, Que., to Ottawa, Ont.

82. Excessive freight rates of railways on peaches and plums to Brandon, Man.

83. Excessive charges of Dominion Express Company on shipment of harness from Toronto to Claresholm, Alta.

84. Excessive express charges on three typewriting machines shipped from Woodstock, N.B., to Halifax, N.S.

85. Improper temperature of fruit cars on railways.

86. Cutting of timber by Canadian Pacific Railway on property of J. P. May, Dudley, Ont.

87. Estimated weights of apples in barrels as charged by railways in Canada.

88. Excessive express rates on shipments of apples forwarded by Graham Company, Belleville, Ont.

89. Failure of Canadian Pacific Railway to furnish station agent at Farrelton, Que.

90. Fencing of right of way by Canadian Pacific Railway, lots 23 and 24, concession 3, township of McKim, near Sudbury, Ont.

91. Inadequate car supply of Canadian Pacific Railway for shipments from St. Anne de Plains and Lepage, Que.

92. Improper methods of Grand Trunk Pacific Railway right of way agent in securing lands in the Clover Bar district.

93. Condition of highway crossings of the Canadian Northern Ontario Railway in the township of Clarence, Ont.

94. Inadequate car supply for shipments of wheat via Canadian Pacific Railway from North Portal, Sask.

95. Inadequate car supply for shipment of wheat via Canadian Pacific Railway from Coal Fields, Sask.

96. Inadequate car supply for shipments of wheat via Canadian Pacific Railway from Alexander and Griswold, Man.

97. Inadequate car supply for shipments of coal from Frank, Alta.

98. Inadequate car supply for shipments of grain via Canadian Pacific Railway from Rocanville, Sask.

99. Inadequate car supply for shipments of grain via Canadian Northern Railway shipped from Stewartburn, Man.

100. Non-payment by Grand Trunk Pacific Railway for land of Chester L. Mintminnick, Church Bridge, Sask.

101. Failure of Canadian Pacific and Grand Trunk and Canadian Northern Railways to allow the Mooney Car Line Company mileage on its cars.

102. Excessive passenger rates charged by the Halifax and Southwestern Railway Company.

103. Blocking of watercourse by Grand Trunk Railway at Freeman, Ont.

104. Excessive freight rates of Canadian Pacific and Grand Trunk Railways on live stock shipments forwarded by Gordon, Ironsides and Fares to Philadelphia, Pennsylvania and Baltimore, Md.

105. Inadequate car supply of Canadian Pacific and Grand Trunk Railways on shipments from Canadian Portland Cement Company.

106. Unsatisfactory train service of Grand Trunk Railway during the winter months between Montreal, Quebec and the south side of the St. Lawrence river.

107. Inadequate car supply of Grand Trunk Railway on shipments from Drumbo, Ont.

108. Express charges of the Dominion Express Company on shipments from Brampton to North Bay, Ont.

109. Loss of shipment of wrapping paper via Atlantic and Lake Superior Railway, consigned to Maria, Que.

110. Demurrage charges assessed by Canadian Northern Railway on shipment to Weston, Sask.

SESSIONAL PAPER No. 20c

111. Highway crossings of the Grand Trunk Pacific Railway in the municipality of Miniota, Man., one-half mile north of Arrow River siding on Miniota branch, Canadian Pacific Railway.
112. Loss of cattle belonging to W. E. Tees, of Tees, Alta., killed on right of way of Canadian Pacific Railway.
113. Advance in winter export rates by Grand Trunk and Canadian Pacific Railways on butter and cheese.
114. Discrimination in freight rates on live stock by Canadian Pacific Railway on shipments account Charles Knight, Calgary, Alta.
115. Flooding of lands of Daniel Michaels, Parry Sound, Ont., account blocking of watercourse by Canadian Northern Railway.
116. Excessive freight rates Canadian Pacific Railway to and from Cardston, Alta.
117. Delay of Grand Trunk Railway in supplying cars for shipments from St. Mary's, Ont.
118. Excessive freight rates of the Boston and Maine Railroad at Rock Island, Que.
119. Excessive rates of Canadian Pacific Railway on ties for export consigned to Elder Dempster Company.
120. Delay in delivery by railways shipments of freight consigned to Waterous Engine Co., Brantford, Ont.
121. Delay in delivery of shipments of freight account J. B. Smith & Co., via Canadian Pacific Railway from North Bay and Biscotasing to Toronto, Ont.
122. Excessive rates of Dominion and Canadian Express Companies on sour cream shipped account Ottawa Dairy Company.
123. Inadequate supply of cars by Michigan Central Railroad on shipments from the Wallaceburg Sugar Company, Wallaceburg, Ont.
124. Removal of planking by Canadian Pacific Railway between tracks on highway road, Macleod to Lyndon, Alta.
125. Inadequate car supply for shipments of grain via Canadian Northern Railway from Melfort, Saskatchewan.
126. Overcharge by Canadian Northern Railway for storage of baggage belonging to J. W. Giles, Edmonton, Alta.
127. Delay in handling traffic of J. S. Mitchell & Co., Sherbrooke, Que., via Grand Trunk Railway.
128. Insufficient passenger train accommodation furnished by Canadian Pacific Railway on Nominig Branch.
129. Overcharge on shipment of horses consigned to Arcola, Saskatchewan, by Canadian Pacific Railway.
130. Excessive delay in delivery of shipments from Port Perry, Ont., via Grand Trunk and Canadian Northern Railways to La Fonderie de Joliette, Que.
131. Inadequate car supply furnished by Canadian Pacific and Grand Trunk Railway on shipments from the Pembroke Lumber Company, Pembroke, Ont.
132. Loss of horses belonging to T. L. Woodwatt and P. Veale, killed by Grand Trunk Railway at Beaverton, Ont.
133. Delay in handling shipments of the *Toronto Globe*, Toronto, Ont., by Canadian Pacific and Canadian Northern Railways to points west of Winnipeg, Manitoba.
134. Excessive rates on bark shipments from Sprucedale, Ont., to London and Berlin, Ont., via Grand Trunk Railway.
135. Unfair demurrage charges of Canadian Northern Railway on shipment of Kemp Manufacturing Company, Winnipeg, Man.
136. Insufficient train service provided by Phillipsburg Junction and Quarry Company, to residents at Phillipsburg East, Que.
137. Lack of medical attendance by Grand Trunk Pacific Railway to men on construction near Ingolf, Ont.

7-8 EDWARD VII., A. 1908

138. Poor mail connection of the Canadian Pacific and Canadian Northern Railways at Regina for mail for Lumsden, Sask.

139. Excessive switching charges of the Michigan Central Railway on shipments of the John Campbell Company, St. Thomas, Ont.

140. Failure of Grand Trunk Pacific Railway to obtain proper authority for crossings of highways in the municipality of Elton, Man.

141. Unsatisfactory train service of Canadian Pacific Railway to Asquith, Sask.

142. Inadequate car supply of Grand Trunk Railway for shipments of wood from Gilford, Ont.

143. Inadequate car supply by Canadian Pacific Railway Company for shipments of coal to Davidson, Sask.

144. Insufficient station accommodation provided by Central Vermont Railway at North Stanbridge, Que.

145. Inadequate car supply of Canadian Pacific and Canadian Northern Railways through the province of Manitoba, complaint of J. H. Ashdown Hardware Co., Winnipeg, Man.

146. Unsanitary condition of station and surroundings at Portage la Prairie, Man., Canadian Pacific Railway.

147. Protest of Northwest Cedarmen's Association against railways providing permanent stakes on flat and gondola cars for shipments of cedar products.

148. Delay in handling freight shipments via Grand Trunk Railway from Montreal, Que., to Victoriaville, Que.

149. Excessive charges of railways on commercial baggage from Ottawa and Winnipeg to Toronto, Ont.

150. Discriminatory rates of the Grand Trunk Railway on lumber shipments from Huntsville to St. Thomas as against Wingham, Ont.

151. Condition of cars supplied by Canadian Northern Railway to coal dealers at Edmonton, Alta., for the movement of coal traffic.

152. Condition of fences of Canadian Pacific Railway along right of way near Cartwright, Man.

153. Closing of station by Michigan Central Railway at Hawtreys, Ont.

154. Excessive interswitching charges of Grand Trunk and Canadian Pacific Railways on four cars of railway ties account Rideau Lumber Company, Ottawa, Ont.

155. Discrimination in car supply of Canadian Northern Railway at Vassar, Man.

156. Excessive delay in transit on car of lambs forwarded from Mount Forest, Ont., to Buffalo, N.Y.

157. Dangerous condition of railway crossings in the county of Oxford, Ont.

158. Overcharge by Atlantic and Lake Superior Railway on six horses from Matapedia, Que., to Newcastle, account Port Daniel Lumber Company.

159. Overcharge on carload of brick shipped via Quebec, Montreal and Southern and Delaware and Hudson Railways, from St. Lambert to St. Antoine, Que.

160. Inadequate facilities furnished by Central Vermont Railway for handling of freight at Granby, Que.

161. Stop over privileges on shipments of poultry to Almonte, Ont., via Canadian Pacific Railway.

162. Cartage charges of railways on shipments of the Ontario Retail Hardware Company and Stove Dealers Association.

163. Interswitching charges of Canadian Pacific and Canadian Northern Railways at Winnipeg, Man.

164. Inadequate car supply, Canadian Pacific Railway, for movement of grain shipped from Belle Plains, Sask.

165. Excessive delay by Atlantic and Lake Superior Railway in transporting shipment of condition powder from Ste. Adele, Que., to Caplin, Que.

166. Train service of Canadian Northern Railway at Swan River, Man.

167. Protest against passenger rate of 3½ cents a mile as charged by the Grand Trunk Railway east of Toronto, Ont.

SESSIONAL PAPER No. 20c

168. Excessive freight rates of Canadian Pacific Railway on shipment of settlers' effects from Alexandria, Ont., to Canadian Northwest.

169. Inadequate car supply by Canadian Pacific Railway for lumber shipments from Canterbury, N.B., to Boston, Mass.

170. Loss of shipment via Grand Trunk and Canadian Northern Railways from Coomb & Watson, Kincairdine, Ont., to the Bampffield Company, Winnipeg, Man.

171. Insufficient car service of the Grand Trunk and Canadian Pacific Railways, and embargo of Grand Trunk Railway on shipments to points east of Toronto, Ont.

172. Damage done by St. Mary's and Western Ontario Railway to farm of William Slater, Granthurst, Ont.

173. Excessive freight rates of Canadian Pacific Railway on shipments of canned goods forwarded from Wellington, Ont., to Sturgeon Falls, Ont.

174. Damage claim through failure of Canadian Northern Railway to furnish car for transportation of household effects from Ridgeville, Man., to Pimwood, Ont.

175. Discriminatory rates of Canadian Pacific Railway on flour in carloads from Enderby, B.C., to Ladysmith, B.C., as compared with rates to Victoria, B.C.

176. Dangerous condition of Grand Trunk bridge and crossing of road at north end of the town of Weston, Ont.

177. Condition of culvert on Dufferin street crossing at east end of Dennison avenue of Canadian Pacific and Grand Trunk Railways in the village of Weston, Ont.

178. Discriminatory freight rates of Grand Trunk Railway on shipments of coal on account of Angus McDonald & Sons, Alexandria, Ont., and local points.

179. Discriminatory rates of New Brunswick Southern Railway Company on ice to Union Ice Company, St. John, N.B.

180. Failure of Canadian Pacific Railway to provide proper transfer at Regina on shipments to Canadian Northern Railway points.

181. Excessive charges of Dominion Express Company on milk shipments of A. Thompson, Dewdney, B.C., to Vancouver, B.C.

182. Discriminatory interswitching charges of the Grand Trunk Railway on shipments at Toronto, Ont.

183. Excessive charges of Grand Trunk Railway on six cars of pulpwood from Danville, Que., to Hull, Que.

184. Inadequate car supply, Canadian Pacific Railway, for movement of hay traffic account, Montreal Hay Exporters Association.

185. Discrimination by Grand Trunk Railway in car supply for movement of hay traffic account Quintal & Lynch, Montreal, Que.

186. Inadequate car supply by Canadian Pacific Railway for movement of hay traffic to Montreal.

187. Inadequate car supply by Grand Trunk Railway for movement of hay traffic from St. Remi, Que.

188. Inadequate car supply for movement of hay traffic to Montreal by Grand Trunk Railway.

189. Inadequate car supply for movement of grain traffic by all railways.

190. Failure of railways to supply cars for movement of cement from Lakefield, Ont.

191. Failure of railways to furnish cars for movement of lumber to Toronto, Ont.

192. Failure of Grand Trunk Railway to supply sufficient cars at Point St. Charles, Que., for movement of traffic.

193. Failure of railways to furnish sufficient cars for Kingston, Ont., for movement of traffic.

194. Failure of railways to furnish sufficient cars for movement of traffic at Hamilton, Ont.

195. Insufficient supply of cars by Canadian Pacific Railway for the movement of traffic to Montreal, Que.

7-8 EDWARD VII., A. 1908

196. Failure of Canadian Pacific Railway to furnish sufficient equipment for the movement of traffic at London, Ont.
197. Car service rules in connection with loading of lumber.
198. Insufficient protection at spur to burner on James Bay Railway at Parry Sound, Ont.
199. Excessive freight rates, Canadian Northern Railway on cordwood from Dauphin, Man.
200. Excessive export rates on cheese shipments from Brockville, via St. John, New Brunswick, and Portland, Maine.
201. Overcharge in weight of cars shipped via Canadian Pacific Railway to Newbery, N.B.
202. Excessive passenger rates charged by Canadian Pacific Railway between Port Arthur and Ottawa, Ont.
203. Excessive and unnecessary whistling of locomotives of Grand Trunk Railway in passing from Laurier Bridge to the Deep Cut, Ottawa, Ont.
204. Insufficient passenger train service of Grand Trunk Railway between Malton and Toronto, Ont.
205. Complaint of treatment given shipper at Malvina, Que., by Maine Central Railroad Company in unloading of freight.
206. Advance in rates on railway ties by railways in Canada.
207. Failure of Quebec, Montreal and Southern Railway to provide stick booms at Sorel, Que.
208. Excessive charges of Grand Trunk Railway on lumber stopped in transit for milling at Orillia, Ont.
209. Changes made by Grand Trunk Railway in grades and subways in various crossings in the township of London, Ont.
210. Failure of Canadian Pacific Railway Company to pay for right of way in section 1, range 13-17, west of 1st meridian, province of Alberta.
211. Objection to laying of Toronto and Niagara Railway tracks fronting the convent of the nuns of Loretto at Niagara Falls, Ont.
212. Delay to shipment of lumber via Canadian Pacific and Canadian Northern Railways ex Crothers' siding, Maymont, Sask.
213. Protest of William Brown, township of Onondaga, *re* narrow gates at farm crossing of Grand Trunk Railway.
214. Protest against arrangement existing between Canadian Pacific Railway and Seeley Packet line on flour ex Ontario or Manitoba points to St. John, New Brunswick.
215. Loss through horses killed by Canadian Pacific Railway at Kisbey, Sask.
216. Excessive demurrage charges by Grand Trunk Railway on shipments of shingles to Toronto, Ont.
217. Refusal of Canadian Express Company to accept responsibility for delivery of milk at Montreal to party to whom consigned.
218. Excessive rates charged by Maritime Express Company over Halifax and Southwestern Railway.
219. Non-execution by Canadian Pacific Railway of deed of land made to F. R. DuCailland at Sudbury, Ont.
220. Shortage in weights of coal delivered by railways.
221. Excessive weight and charges on a launch shipped by Grand Trunk Railway from Toronto to Muskoka, Ont.
222. Failure of Canadian Northern Quebec Railway to fence right of way at property facing station at Brunet, Que.
223. Excessive freight rates on coal from Pictou, Sydney and other Nova Scotia coal shipping points to points west of Windsor, Nova Scotia.
224. Failure of Canadian Pacific Railway to construct Lyleton branch in Saskatchewan.
225. Obstructing of drainage along line of Atlantic and Lake Superior Railway near Maria, Que.

SESSIONAL PAPER No. 20c

226. Excessive estimated weight on shipment of harrows via Atlantic and Lake Superior Railway.

227. Loss through cattle killed by Canadian Pacific Railway near Blackfalds, Sask.

228. Cutting down of timber, Guelph and Goderich Railway, on tract of land adjoining right of way of railway near Tralee, Ont.

229. Loss of cattle killed by railway near Reston, Man.

230. Failure of railway to properly fence right of way at lot 29, concession 5, Parry Sound, Ont.

231. Refusal of Niagara Falls Park and River Railway to furnish freight service.

232. Excessive rates on varnish and paint from Windsor, Ont., as contrasted with rates on similar freight from eastern points.

233. Failure of express companies to carry express traffic for Vegreville, Alta., via direct route from points east.

234. Requirement of express companies that shipments of newspapers must be weighed daily before departure of trains.

235. Loss of cattle killed on Canadian Northern Railway tracks near Vermilion, Alta.

236. Delay in getting rural telephones across tracks of Grand Trunk Railway near Casselman, Ont.

237. Unsatisfactory treatment afforded the public by agent of Canadian Pacific Railway at Claresholm, Alta.

238. Freight service on Canadian Pacific Railway to Govan, Sask.

239. Excessive freight rates on lumber and coal charged by railways in Saskatchewan.

240. Discrimination in passenger rates to immigrants arriving at Canadian ports who were carried by non-combine steamers.

241. Failure of Central Vermont Railway to supply adequate equipment for removal of hay traffic from Des Rivières, Que.

APPENDIX F.

LIST OF EXAMINATIONS AND INSPECTIONS

MADE BY THE

**ENGINEERING DEPARTMENT OF THE BOARD, COVERING PERIOD
FROM APRIL 1, 1906, TO MARCH 31, 1907.**

APPENDIX F.

LIST OF EXAMINATIONS AND INSPECTIONS MADE BY THE ENGINEERING DEPARTMENT OF THE BOARD, COVERING PERIOD FROM APRIL 1, 1906, TO MARCH 31, 1907.

April 3, 1906.—Inspection of interlocking plant where the Canadian Pacific Railway crosses the Grand Trunk Railway at Alliston, Ont.

April 5, 1906.—Inspection of proposed change of location of the Toronto, Grey and Bruce Railway (leased by the Canadian Pacific Railway), near Bolton village, Ont.

April 5, 1906.—Inspection of spur lines of the Grand Trunk Railway in the town of Bracebridge, Ont.

April 6, 1906.—Inspection of the Hawk Rock bridge on the North Bay branch of the Grand Trunk Railway, near Gravenhurst, Ont.

April 7, 1906.—Inspection of the Grand Valley Railway from the southern limit of the town of Galt to its junction with the Galt, Preston and Hespeler Railway, a distance of about half a mile.

April 11, 1906.—Inspection of the crossing of the Hull Electric Railway over the Canadian Pacific Railway, north of Central depot, Ottawa.

April 11, 1906.—Inspection of diversion of the Nanaimo and Esquimault Railway north of Ladysmith; and a general inspection of the line for opening for traffic.

April 14, 1906.—Inspection of drain on right of way of the Grand Trunk Railway in Preston, Ont.

April 18, 1906.—Inspection of the James Bay Railway, crossing the Canadian Pacific Railway tracks, at rail-level, near Wahnapiatae station, Ont.

April 27, 1906.—Inspection of proposal of the Canadian Pacific Railway to lay tracks on the west side of Nicholas street, in the city of Ottawa.

April 30, 1906.—Inspection of crossing of the Canadian Pacific Railway at Main street, Bridge and Little Bridge streets, Almonte, Ont.

May 2, 1906.—Inspection *re* better protection in regard to drainage of lands crossed by the proposed Lindsay diversion of the Grand Trunk Railway, Lindsay, Ont.

May 2, 1906.—Inspection of proposed crossing of Grand Trunk Railway on Angeline street, Lindsay, Ont.

May 3, 1906.—Inspection of R. Adams, farm crossing on the Canadian Pacific Railway (Sudbury-Kleinburg branch), six and a half miles south of Alliston, Ont.

May 3, 1906.—Inspection of interlocking plant of the Canadian Pacific Railway Company (Sudbury-Kleinburg branch), and the Grand Trunk Railway (Collingwood branch), near Utopia station, Ont.

May 3, 1906.—Inspection of Wright drain where it proposes to cross the Père Marquette Railway in the township of Raleigh, Essex county, Ont.

May 4, 1906.—Inspection of place where the Windsor, Essex and Lake Shore Rapid Railway proposes to cross the track of the Canadian Pacific Railway, on the Gravel road, township of Sandwich east, county of Essex, Ont.

May 4, 1906.—Inspection of crossing of the Grand Trunk Railway of the Peterborough Radial Railway, Peterborough, Ont.

May 5, 1906.—Inspection of proposed highway diversions in connection with the proposed Windsor yards, of the Canada Southern Railway, near Windsor, Ont.

May 5, 1906.—Inspection of place where the Windsor, Essex and Lake Shore Rapid Railway proposes to cross the tracks of the Canada Southern Railway on Talbot street, Essex, Ont.

7-8 EDWARD VII., A. 1908

May 11, 1906.—Inspection of proposed crossings of Lyndon street and the road on the Dominion Government reserve in the town of Thorold, Ontario, by the Niagara, St. Catharines and Toronto Railway.

May 25, 1906.—Inspection of crossing over the Canadian Pacific Railway on lot 10, concession 3, township of Neelon, district of Nipissing, Ont.

May 26, 1906.—Inspection of J. Bte. Chinier's proposed farm crossing on the So. line of the Canadian Pacific Railway, about three miles west of Blind River station, Ont.

May 28, 1906.—Inspection of proposed street crossing where the Canadian Pacific Railway intersects Huron street in the town of Steelton, Ont.

May 28, 1906.—Inspection of location of the proposed spur lines to the premises of the Union stock yards and Gunn's, Limited, Toronto Junction, Ont.

June 8, 1906.—Inspection of rail-level crossing over the main lines of the Grand Trunk Railway, from Montreal to Oshawa, at the western end of the Oshawa station.

June 8, 1906.—Inspection of highway crossing of the Grand Trunk Railway, between lots 20 and 21, in the township of Whitby, known as Corbett's Crossing.

June 9, 1906.—Inspection of crossing on farm of John Barr, Blyth, Ont.

June 11, 1906, Inspection of interlocking plant at the crossing of the Canadian Pacific Railway by the Grand Trunk Railway, one mile west of Woodstock, Ont.

June 11, 1906.—Inspection of conditions of approaches of highway bridge on Grand Trunk main line west of Paris station, Ontario; also as to the unsafe condition of a highway bridge over their branch line to Harrisburg,, near Blue Lake, Ont.

June 12, 1906.—Inspection of farm crossings of Jacob H. Wright and John A. Hicks, in lot 29, concession 4, township of Enniskillen, Ont.

June 19, 1906.—Inspection of additional lands required by the Grand Trunk Railway for terminal purposes at the Central station, Ottawa.

June 20, 1906.—Inspection of site proposed high level bridge over the tracks of the Canadian Pacific Railway and Grand Trunk Railway near the Don river, Toronto, Ont.

June 21, 1906.—Inspection of plans of proposed method of protection high tension power transmission lines at railway crossings.

June 22, 1906.—Inspection of place where it was proposed to permit the electric railway to cross the Grand Trunk Railway at Chatham, Ont.

June 22, 1906.—Further inspection of proposed crossing of the main line of the Grand Trunk Railway by the Chatham, Wallaceburg and Lake Erie Railway, in the city of Chatham, Ont.

June 23, 1906.—Inspection of site of proposed wall for protection of road at Milverton river, Ont.

June 28, 1906.—Inspection of site of proposed crossing of the Grand Trunk Railway main line on lot 15, concession 4, township of Scarboro, county of York, Ont.

July 2, 1906.—Inspection of site of proposed crossing of the Canadian Pacific Railway and Canadian Northern Railway by the Grand Trunk Pacific Railway, at West Fort William, Ont.

July 3, 1906.—Inspection of Napierville Junction Railway crossing the Grand Trunk Railway at rail level, 5,800 feet west of Lacolle Junction, Que.

July 4, 1906.—Inspection of highway bridge over the Grand Trunk Railway at St. Bruno, county of Chambly, Que.

July 7, 1906.—Inspection of ditches and culverts on the line of the Grand Trunk Railway in the township of Guelph, Ont.

July 12, 1906.—Inspection of additional culvert on the Grand Trunk Railway (Buffalo-Goderich branch), near Caledonia, Ont.

July 13, 1906.—Inspection of Guelph and Goderich Railway, into crossings and ditches, Blyth, Ont.

July 13, 1906.—Inspection of under-crossing on the Guelph and Goderich Railway, near Blyth, Ont.

SESSIONAL PAPER No. 20c

July 16, 1906.—Inspection of James Bay Railway crossing the Grand Trunk Railway (Sutton branch) near Mount Temple, Ont.

July 19, 1906.—Inspection of site of proposed crossing of Michigan Central Railroad by the Windsor, Essex and Lake Shore Rapid Railway.

July 19, 1906.—Inspection of site of proposed crossing of Michigan Central Railroad by the Windsor, Essex and Lake Shore Rapid Railway at Essex, Ont.

July 27, 1906.—Inspection of two farm crossings (Sudbury-Kleinburg branch) Canadian Pacific Railway, near Parry Sound, Ont.

August 2, 1906.—Inspection of interlocking plant at the crossing of the Canadian Pacific Railway (Sudbury-Kleinburg branch) with the Grand Trunk Railway (Midland branch) near Coldwater, Ont.

August 3, 1906.—Inspection of revised location of the Canadian Pacific Railway, through the property of the St. Paul Land and Hydraulic Company, Cote St. Paul, Que.

August 4, 1906.—Inspection of a diversion of the main line of the Crow's Nest Pass branch of the Canadian Pacific Railway, for opening for traffic at Macleod, Alta.

August 6, 1906.—Inspection of a bridge over the Assiniboine river at Headingly, Manitoba, on the line of the Canadian Pacific Railway.

August 9, 1906.—Inspection of fencing between Wolseley and Sintaluta, Saskatchewan, on the Canadian Pacific Railway.

August 9, 1906.—Inspection of interlocking plant at the crossing of the James Bay Railway with the Grand Trunk Railway (Toronto and North Bay line) at Washago, Ont.

August 20, 1906.—Inspection of road crossing on the line of the Grand Trunk Pacific Railway at Arrow River, Man.

August 23, 1906.—Inspection of second track of the Canadian Pacific Railway for opening for traffic between Westfort and Neebing, Ont.

September 5, 1906.—Inspection of several street crossings and subways on the Canadian Pacific Railway in Calgary, Alta.

September 7, 1906.—Inspection of Canadian Pacific Railway (Edmonton branch) of several street crossings in Didsbury, Alta.

September 7, 1906.—Inspection of Canadian Pacific Railway (Edmonton branch) of several street crossings in Olds, Alta.

September 18, 1906.—Inspection of crossing of the Dominion Atlantic Railway by the Middleton and Victoria Beach Railway at Middleton, N.S.

September 19, 1906.—Inspection of the location of the Quebec, Montreal and Southern Railway, on what is known as the South River Bridge.

September 20, 1906.—Inspection of the Canadian Pacific Railway Company's proposed drain across lot 2, concession 4, township of Kaladar.

September 22, 1906.—Inspection of Canadian Pacific Railway (Reston-Wolseley branch) for a distance of 92 miles from Reston to Windthart, Manitoba.

September 27, 1906.—Inspection of Canadian Pacific Railway (Lauder branch) for a distance of sixteen miles from Lauder to Broomhill, Man.

September 28, 1906.—Inspection of Canadian Pacific Railway (Moosejaw branch) for 14.5 miles from Moosejaw to Belbeck, Sask.

October 1, 1906.—Inspection of Canadian Pacific Railway (second track) for distance of 5.5 miles from Neebing to Murillo, Ont.

October 4, 1906.—Inspection of crossing of the Canadian Pacific Railway (Miniota branch) with the Grand Trunk Pacific Railway, near Forest, Man.

October 5, 1906.—Inspection of Canadian Northern Railway accident,—collapse of trestle bridge near Port Arthur, Ontario.

October 5, 1906.—Inspection of the crossing of the Canadian Pacific Railway at Nelson street, Sudbury, Ont.

October 11, 1906.—Inspection of Ottawa and New York Railway between Ottawa and Cornwall, with reference to condition of the road-bed.

7-8 EDWARD VII., A. 1908

October 11, 1906.—Inspection of highway crossings on line of the Ottawa and New York Railway, between Ottawa and Cornwall.

October 14, 1906.—Inspection of Canadian Pacific Railway (second track) for distance 13·5 miles from Murillo to Kakabeka, Ont.

October 14, 1906.—Inspection of Canadian Pacific Railway (second track), from Dexter to Linko, Ont., a distance of 5·7 miles.

October 14, 1906.—Inspection of Canadian Pacific Railway (second track) from Gull River to Ignace, Ont., a distance of 7·6 miles.

October 14, 1906.—Inspection of Canadian Pacific Railway (second track) from mile 6·5 to Raleigh, Ont.

October 16, 1906.—Inspection of Toronto-Sudbury branch of the Canadian Pacific Railway from Bolton to Craighurst, for opening for traffic.

October 17, 1906.—Inspection of Guelph and Goderich Railway for opening for traffic between Elmira and Milverton, Ont.

October 17, 1906.—Inspection of road crossing on line of Guelph and Goderich Railway, near Milverton river, township of Mornington, Ont.

October 17, 1906.—Inspection of Brandon, Saskatchewan and Hudson Bay Railway, for distance of 43 miles from the International boundary to Wenster, Man.

October 18, 1906.—Inspection of crossing of the Midland Railway with the Canadian Northern Railway at Roland, Man.

October 18, 1906.—Inspection of crossing of the Midland Railway with the Canadian Pacific Railway at Plum Coulee, Man.

October 22, 1906.—Inspection of Canadian Pacific Railway (Yahk branch) for a distance of 8·5 miles from Curzon to Kingsgate, British Columbia.

October 23, 1906.—Inspection of overhead bridge over the Grand Trunk Railway in the city of Kingston, Ont.

October 25, 1906.—Inspection of Timothy street crossing of the Canadian Pacific Railway, Montreal, Que.

October 27, 1906.—Inspection of the Vancouver, Victoria and Eastern Railway from Midway to Molson, B.C., a distance of 28·9 miles.

October 31, 1906.—Inspection of the Nicola, Kamloops and Similkameen Coal and Railway Company, from Spences Bridge to Coutlee, B.C., a distance of 37·8 miles.

November 2, 1906.—Inspection of the Staynerville Branch of the Canadian Pacific Railway from Staynerville Station to Brunet's Quarry, Que.

November 5, 1906.—Inspection of the Canadian Northern Railway, from Rose-dale, Toronto, to Parry Sound, Ont.

November 7, 1906.—Inspection of the Rockland Branch of the Grand Trunk Railway crossing the Canadian Northern at Rockland, Ont.

November 7, 1906.—Inspection of crossing of the Hawkesbury Branch of the Grand Trunk Railway by the Canadian Northern Ontario Railway.

November 8, 1906.—Inspection of crossing of the Niagara, St. Catharines and Toronto Railway by a spur line of the Michigan Central on Victoria Avenue, Niagara Falls, Ont.

November 9, 1906.—Inspection of place where the Walkerton and Lucknow Railway proposes to cross the Grand Trunk Railway near Hanover, Ontario.

November 9, 1906.—Inspection of newly constructed 'South Bank Branch' of the Canadian Pacific Railway, from a point on the south side of the Lachine canal to Eadie street, Cote St. Paul, Que.

November 10, 1906.—Inspection of crossing of the Midland Railway with the Canadian Pacific tracks in the western part of Winnipeg, Man.

November 16, 1906.—Inspection of Brandon, Saskatchewan and Hudson Bay Railway, from Brandon to Webster, Man., a distance of 26·5 miles.

November 17, 1906.—Inspection of crossing of Midland Railway with the Canadian Pacific Railway (Souris section) at Elm Creek, Manitoba.

SESSIONAL PAPER No. 20c

November 19, 1906.—Inspection of highway crossings by the Grand Trunk Railway in the town of St. John, Que.

November 19, 1906.—Inspection of crossing of the Windsor, Essex and Lake Shore Rapid Railway by the Canada Southern at Talbot street, Essex, Ont.

November 20, 1906.—Inspection of plans for spur track of the Grand Trunk Railway to the Canada Saw Company and the Lang Biscuit and Confectionery Company, Montreal, Que.

November 20, 1906.—Inspection of interlocking plant at the crossing of the Michigan Central Railway and the Grand Trunk Railway at Lasalette, Ont.

November 23, 1906.—Inspection of the Canadian Pacific Railway (Winnipeg Beach) to Gimli, Man.

November 23, 1906.—Inspection of New Brunswick Southern Railway between St. John and St. Stephen, with reference to the condition of road-bed, &c.

November 27, 1906.—Inspection of the Atlantic, Quebec and Western Railway.

November 28, 1906.—Inspection of the Canadian Pacific Railway (Wetaskiwan branch) from Daysland to Hardisty, Alta.

November 28, 1906.—Inspection of the Atlantic and Lake Superior Railway, from Matapedia to New Carlisle.

November 29, 1906.—Inspection of protection at Wilson, Norwich, Dundas and Peel streets, Woodstock, Ont.

November 29, 1906.—Inspection of culvert in the township of East Oxford, Ont.

November 30, 1906.—Inspection of location of proposed spur line of the Canadian Pacific Railway to the premises of the James Smart Company, Brockville, Ont.

December 1, 1906.—Inspection of street crossing with the Canadian Pacific Railway, in the city of Medicine Hat, Sask.

December 6, 1906.—Inspection of crossings of highways by the second track of the Michigan Central Railroad in the townships of Bertie, Humberstone and Crowsland, mileage, 0 to 16, from Bridgeburg. Townships of Walpole, Townsend, Windham, South Norwich, Durham and South Dorchester, mileage, 40 to 103 from Bridgeburg. Townships of Howard, Harwich, Raleigh and East Tilbury, mileage, 159 to 190 from Bridgeburg.

December 6, 1906.—Inspection of the tracks of the Michigan Central Railway for opening for traffic between Tilsonburg and Springfield and Ridgetown and Tilbury.

December 12, 1906.—Inspection of the Canadian Pacific Railway (Reston-Wolsley branch) from Windthorst to Kaiser, Sask.

December 20, 21 and 24, 1906.—Investigation into car shortage for the carriage of grain at North Portal, Saskatchewan, Bienfait, Saskatchewan and Darlington, Man.

December 20, 1906.—Inspection of trestle on spur line to Dickson's Mills, in Peterborough, Ont.

December 21, 1906.—Inspection of crossing of the Guelph and Goderich Railway by the Guelph Radial Railway on the Elora road, Guelph, Ont.

December 23, 1906.—Inspection of interlocking plant at the crossing of the Canadian Pacific Railway with the Canadian Northern, parish of St. James, Man.

December 27, 1906.—Inspection of interlocking plant at the crossing of the Michigan Central Railway with the Grand Trunk Railway at Hagersville, Ont.

December 27, 1906.—Inspection of interlocking plant at crossing of the Midland Railway with the Canadian Pacific Railway (Souris branch) at Elm Creek, Man.

December 27, 1906.—Inspection of interlocking plant at crossing of Midland Railway with the Canadian Northern Railway at Carman, Man.

December 27, 1906.—Inspection of interlocking plant at crossing of Midland Railway with the Canadian Pacific Railway at Plum Coulee, Man.

December 31, 1906.—Inspection of highway crossing of the Quebec, Montmorency and Charlevoix Railway at rail level, to get to what is known as the government wharf.

December 31, 1906.—Inspection of highway crossing over the Grand Trunk Railway tracks at their station known as Chaudière Curve.

January 2, 1907.—Inspection of diversion of highway across the Canadian Pacific

7-8 EDWARD VII., A. 1908

Railway tracks in the township of Petite Rivière du Loup, county of Maskinonge, Que.

January 6, 1907.—Investigation into collapse of Canadian Northern bridge near Port Arthur, Ont.

January 6, 1907.—Inspection of second track of Michigan Central Railway, for opening for traffic between Waterford and Tilsonburg.

January 14, 1907.—Inspection of protection at Notre Dame street, Montreal.

January 14, 1907.—Inspection of diversion of the old roadway at St. Timothy street, Montreal, over the tracks of the Canadian Pacific Railway.

January 15, 1907.—Inspection of method employed by electric companies in carrying high tension power transmission lines across railways.

January 16, 1907.—Inspection of crossing of the colonization road over the Canadian Pacific Railway at Bala, Ont.

January 17, 1907.—Investigation into wreck on the Canadian Pacific Railway, near Kamanistiquia, Ont.

January 18, 1907.—Investigation into wreck on the Canadian Pacific Railway at Ostersund, Ont.

January 22, 1907.—Inspection of places where the Preston and Berlin Street Railway crosses the spur lines of the Grand Trunk Railway on Joseph and Wilmot streets, Berlin, Ont.

January 23, 1907.—Inspection of London and Port Stanley Railway with reference to condition of road-bed.

January 24, 1907.—Inspection of proposed extension of Davis and Mitchell streets across the tracks of the Grand Trunk Railway in the town of Port Colborne, Ont.

February 1, 1907.—Inspection of branch line of the Vancouver, Westminster and Yukon Railway from False creek drawbridge to Clark's Drive, Vancouver, British Columbia.

February 1, 1907.—Inspection of the Vancouver, Westminster and Yukon Railway from a point on the main line north of False creek drawbridge to the foot of Carroll street, Vancouver, British Columbia.

February 1, 1907.—Inspection of the Vancouver, Westminster and Yukon Railway branch line across the south shore of False creek to Burrard Inlet, crossing several car tracks, and the tracks of the Canadian Pacific Railway in Vancouver, British Columbia.

February 4, 1907.—Inspection of place where the Vancouver, Westminster and Yukon Railway proposes to join the tracks of the Canadian Pacific Railway at Tenth street, Vancouver British Columbia.

February 4, 1907.—Inspection of location of proposed line of the Vancouver, Westminster and Yukon Railway from 14th to 20th streets, New Westminster.

February 4, 1907.—Inspection of crossing of the Vancouver, Westminster and Yukon Railway with spur line leading to the Royal City Mills, New Westminster.

February 4, 1907.—Inspection of crossing of the Vancouver, Westminster and Yukon Railway with the Canadian Pacific spur line leading to Smith & Bucklin's mill, near 14th street, New Westminster, British Columbia.

February 4, 1907.—Inspection of crossing of the Vancouver, Westminster and Yukon Railway with the Canadian Pacific Railway at Columbia street, New Westminster, British Columbia.

February 5, 1907.—Inspection of proposed location of a spur line of the Toronto, Hamilton and Buffalo Railway to the premises of the Canadian Westinghouse Company, Hamilton, Ont.

February 6, 1907.—Inspection of Lemire System of Railway Signals, electrically operated at Drummondville, Que.

February 7, 1907.—Inspection of working model of Lemire System of Railway Signals in New York Life Building, Montreal.

February 7, 1907.—Inspection of the Nicola, Kamloops and Similkameen Coal and Railway Company from Spence's bridge to Nicola Lake, B.C., for subsidy purposes.

SESSIONAL PAPER No. 20c

February 7, 1907.—Inspection of the Nicola, Kamloops and Similkameen Coal and Railway Company from Coutlee to Nicola Lake, B.C.

February 9, 1907.—Investigation into wreck on the Canadian Pacific Railway at Tranquille, near Kamloops, B.C.

February 15, 1907.—Inspection into the blocking up of the waterway at Coulter's Narrows by the Canadian Northern Railway.

February 19, 1907.—Inspection of interlocking plant at the crossing of the Grand Trunk Railway by the Michigan Central in the town of Welland, Ont.

February 21, 1907.—Investigation into shortage on the Canadian Northern Railway at Rosthern, Sask.

February 25, 1907.—Investigation into the supply of cars, equipment and power on all lines of the Canadian Northern Railway west of Port Arthur.

February 25, 1907.—Inspection of crossing of the Canadian Pacific Railway by the Grand Trunk Pacific Railway at St. Basile, Que.

March 1, 1907.—Inspection of place where the Chateauguay and Northern Railway crosses the Montreal Street Railway on Ontario street, near Valois avenue.

March 2, 1907.—Inspection of application of the city of Ottawa for the widening of bridge and approaches on Somerset street, over the Canadian Pacific and Grand Trunk Railways.

March 4, 1907.—Inspection of road-bed of the Grand Trunk Railway in the vicinity of Guelph, Ont.

March 6, 1907.—Inspection of the crossing of the Père Marquette over the Sarnia tunnel of the Grand Trunk Railway, at Dufferin park, Sarnia, Ont.

March 9, 1907.—Inspection of the Brandon, Saskatchewan and Hudson Bay Railway from Brandon, Manitoba, to the international boundary.

March 13, 1907.—Inspection of farm crossing over the old main line of the Grand Trunk Railway at Lachine, Que.

March 23, 1907.—Inspection of double track of the Canada Southern Railway from Welland to Niagara Junction, Ont.

March 27, 1907.—Inspection of crossings of the Canadian Pacific and Grand Trunk Railways over St. Clair avenue, North Toronto, Ont.

March 31, 1907.—Inspection of highway crossings on the Grand Trunk Pacific Railway in the township of Elton, Man.

APPENDIX G.

R E P O R T

O F T H E

I N S P E C T O R O F A C C I D E N T S O F T H E B O A R D.

APPENDIX G.

REPORT OF THE INSPECTOR OF ACCIDENTS OF THE BOARD.

OTTAWA, June 18, 1907.

A. D. CARTWRIGHT, Esq.,
Secretary of the Board of
Railway Commissioners for Canada,
Ottawa.

DEAR SIR,—I have the honour to submit herewith my report showing the number of persons killed and injured in train accidents during the period commencing April 1, 1906, and ending March 31, 1907, as per reports furnished by the railway companies in accordance with the Railway Act, 1903, sections 235 and 236.

During the above period 460 persons were killed and 603 injured, classified as follows:—

	Killed.	Injured.
Passengers..	42	210
Employees..	212	317
Other persons..	206	76
Total..	460	603

ED. C. LALONDE,
Inspector of Accidents.

7-8 EDWARD VII., A. 1908

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the Character of Accidents on Various Railways in Canada for
Year ending March 31, 1907.

Character of Accident.	PASSENGERS.		EMPLOYEES.		OTHER PERSONS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Stealing ride.....			1		2	3	3	3
While shunting.....			8	5			8	5
Level crossings			1		40	22	41	22
Falling off freight cars.....			4	11			4	11
Trespassing.....					95	32	95	32
Derailment....	8	85	6	16	1	1	15	102
Adjusting couplers, coupling and uncoupling....		1	17	45			17	46
Passengers falling off passenger trains....	1	2					1	2
Working on track			46	29			46	29
Collision, head-on.....	13	74	26	32	5	3	44	109
" rear-end.....		9	2	7			2	16
" between steam train and street car....	1	16		1			1	17
Attempt to get on train in motion.	4	3	3	5	5	7	12	15
Falling off hand-car.....			4	2			4	2
Side ladders.....			1	2			1	2
Falling between cars while walking on top of train.....			4	9			4	9
Jumped off train while in motion.	4	10	2	5	2	1	8	16
Riding on pilot engine.			3	1			3	1
Suicide..					5		5	
Working under car								
" engine....			1	1			1	1
Struck by switch stand				2				2
Caught in guard rail.....			1				1	
Body found on track or bridge....	2		11		48		61	
Struck looking out of cab window.			4	4			4	4
Broken rail.....		3	2				2	3
Fell off work tain			1	1			1	1
While switching.....	1	1	26	29	2		29	30
Pitch-in with handcar.....			8	7			8	7
Over-head bridge.....			2	1			2	1
Bridge collapse.....				3				3
Unclassified	8	6	28	99	1	7	37	112
Totals	42	210	212	317	206	76	460	603

SESSIONAL PAPER No. 20c

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

STATEMENT showing the Number of Persons Killed and Injured on Various Railways in Canada for Year ending March 31, 1907.

NAME OF RAILWAY.	PASSENGERS.		EMPLOYEES.		OTHER PERSONS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Grand Trunk Railway.	11	99	67	174	82	30	160	303
Canadian Pacific Railway.....	24	70	107	47	87	23	218	140
Dominion Atlantic Railway.				1		1		2
Canadian Northern Railway.....	1	11	18	71	11	10	30	92
Algoma Central Railway.....					1		1	
Red Mountain Railway.....			1				1	
Quebec Central Railway.....			2		2		4	
Nelson and Fort Sheppard.....	4	3		3			4	6
Hull Electric Railway.....		14		1				15
Central Vermont Railway.....		1						1
New Brunswick Southern Ry.....		3						3
Hereford Railway.....			1				1	
Michigan Central.....	†		12	7	16	6	29	13
Central Ontario Railway.....						1		1
Atlantic and Lake Superior.....			1				1	
Halifax and Southwestern Ry.....					1		1	
Toronto, Hamilton and Buffalo..	1		1				2	
Great Northern Railway.....				3	3	1	3	4
Père Marquette Railway.....			2	1			2	1
Quebec, Montreal and Southern..				2		1		3
Kingston and Pembroke Railway..					1		1	
Temiscouata Railway.....		1		1	1	1	1	3
Canadian Northern Quebec.....				1		1		2
Wabash Railroad.....		8		5	1	1	1	14
	41	210	212	317	206	76	460	603

† NOTE OF CORRECTION—In the report of accidents for year ending March 31, 1906, a clerical error was made against the Michigan Central Railway by entering, in the column of passengers killed, one passenger killed, instead of one passenger injured.

7-8 EDWARD VII., A. 1908

CAUSES of Twenty-two Prominent Train Accidents which were Investigated and Reported to the Board.

COLLISIONS.

Reference to Record No.	Date of Report.	Date of Ac- cident.	Name of Railway.	Place.	Killed.	Injured.	Cause of the Accident.
	1906.						
34	June 5	May 5	Grand Trunk and Electric Street Railways.	Montreal, Que.	1	1	Collision on diamond. Failure to flag Montreal electric car while freight train was moving towards St. Patrick Street crossing and collided on the diamond.
44	July 31	July 20	Canadian Pacific Railway.	Three Rivers, Que.	1	1	Passenger train No. 41 crashed in lot of freight cars on siding; misplaced switch.
47	Oct. 25	Sept. 12	"	Azilda, Ont.	12	52	Collision head-on. 3rd No. 2 approached meeting point with speed not under proper control. Engineman expected to find 3rd No. 1 in the siding. An angle cock was found closed at the rear end of second car.
48	Sept. 7	Aug. 24	"	St. Thomas, Ont.	2	2	Collision on diamond. Wabash train 2nd No. 1 crashed into C. P. No. 60 at diamond. Failure of engineman of Wabash train to stop at semaphore.
49	Nov. 28	Sept. 22	Grand Trunk Rail- way.	Gourock, Ont.	3	1	Collision head-on. Extra 455 omitted to wait for regular scheduled passenger train No. 44.
51	Oct. 30	July 30	Canadian Pacific Railway.	Ste. Rose, Que.	1	1	Collision rear-end. Extra 452 ran into Extra 488. Cut-off west end switch was misplaced.
52	Nov. 26	Aug. 4	Père Marquette Rail- way and Michigan Central.	St. Thomas, Ont.	2	2	Collision head-on. Failure of Père Marquette to carry out despatcher's order to meet M. C. train 131 at St. Thomas.
53	Dec 26	Nov. 2	Grand Trunk Rail- way.	St. Bruno, Que.	2	1	Collision rear-end. Work train 879 while backing crashed into lot of flat cars left on main line unprotected by Extra 883.
54	" 26	Sept. 21	"	Napanee, Ont.	1	2	Collision head-on. Eastbound fast Ex- press No. 2 crashed into west Extra 781. Failure of engineer to observe brake- man signalling to stop with a white lamp.
55	Jan. 9	Dec. 28	Grand Trunk Rail- way and Montreal Street Car.	Montreal, Que.			Collision on the diamond. C. V. engine crashed into electric car bound for Lachine. Crossing not sufficiently pro- tected.
58	Dec. 26 1907.	Nov. 17 1906.	Grand Trunk Rail- way.	Georgetown, Ont.	2		Collision rear-end. Failure of Ex. Freight 120, double header, to stop at danger signal.
64	Feb. 11	Nov. 15	"	Canoe Lake, Ont.	1		Collision rear-end. Failure of engineer Ex. 2nd 68—approached meeting point with speed not under proper control.
65	" 14	Dec. 15 1907.	Atlantic and Lake Superior Railway.	Black Cape, Que.	1		Collision head-on. Failure of engineer to carry out instructions and to the unsafe manner of despatching trains.
66	Mar. 19	Jan. 3	Canadian Pacific Railway.	Strachan Ave., Toronto.			Collision head-on. Failure of operator at Parkdale to maintain a block until yard engine 2162 had passed Bathurst Street. Material damage only.
67	Mar. 22	Mar. 1	Canadian Pacific Railway.	Mountain, Ont.	2	3	Collision head-on. Engineman of Extra 984 made mistake of one hour in read- ing his watch, and conductor failed to ascertain meeting point with Express No. 6. Fireman and brakeman also responsible for violating the rules of the company.
68	1907. Mar. 13	1906. Nov. 13		Truro, N.S.	1	10	Collision rear-end. 2nd 96 running into 1st 96. Failure of brakeman 2nd 96 not properly protecting his train, violating rule 99.

SESSIONAL PAPER No. 20c

CAUSES of Twenty-two Prominent Train Accidents which were Investigated and Reported to the Board—*Continued.*COLLISIONS—*Continued.*

Reference to Record No.	Date of Report.	Date of Ac- cident.	Name of Railway.	Place.	Killed.	Injured.	Cause of Accident.
	1906.	1906.					
70	Mar. 25	Jan. 30	"	Renfrew, Ont.	7	29 85	Collision head-on. Misplaced switch at east end of the passing siding, and No. 97 crashed into No. 96.

DERAILMENTS.

35	1906. June 27	May 4	Canadian Pacific	Boundary, P.Q.	18	Unexplained.
36	" 27	Mar. 19	New Brunswick Southern.	Didgequash Bridge.	3	
57	1907. Jan. 9	1906. Nov. 15	Grand Trunk Rail- way.	Woodstock, Ont.	8	Broken rail.
63	Feb. 12	Dec. 24	Canadian Pacific Railway.	Ostersund, Ont.	2	Unexplained.
73	Mar. 26	Feb. 26	Grand Trunk Rail- way.	2 miles east of Guelph, Ont.	3 54	Broken rail. Speed 60 miles an hour.
					3 85	

MISCELLANEOUS TRAIN ACCIDENTS.

41	1906. July 25	July 16	Canadian Pacific Railway.	St. Janvier, P.Q.	1	Train No. 134 not scheduled to stop at St. Janvier. Passenger jumped at station platform while train was moving at a high rate of speed.
46	Aug. 10	Aug. 4	"	Dorval, P.Q.	1	Standing on narrow platform between the two main tracks. In attempting to go across to board motor car was struck by No. 97 coming from the opposite direction.
50	Oct. 30	Aug. 7	"	Hochelaga, P.Q.	1	Trespassing through the yard for a short cut home.
55	Dec. 30	Oct. 19	Grand Trunk Rail- way.	Alexandria, Ont.	1	Caught the brass hand railing at the rear end of the last car while train was in motion. Vestibule door was closed.
69	Mar. 25	Jan. 21	"	Port Credit, Ont.	1	Brakeman killed while turning switch. Cause unknown.
71	Mar. 28	Feb. 19	"	Willows, near Lachine, P.Q.	2	While on the eastbound main line waiting for a westbound freight to pass, were killed by eastbound train No. 94.
72	Mar. 26	Jan. 29	"	Lachine, P.Q.	1 4	The team driver saw the train coming, but ran chances to get across the track before train and they were struck.
					8 4	

7-8 EDWARD VII., A. 1908

STATEMENT of Miscellaneous Investigations during the Nine Months ended
March 31, 1907.

Reference to Record No.	Date of Report.	
	1906.	
28	April 10.....	Prosper Labelle's complaint, St. Canut, Que , <i>re</i> station accommodation and facilities, Great Northern Railway.
29A	" 12.....	Report on modern and efficient train equipment.
29	" 17.....	W. C. Richards, Middlemiss, Ont., <i>re</i> train service, Grand Trunk Railway and Wabash Railway.
31	" 24.....	File 2002 <i>re</i> derailment of train No. 2 at Wahnapiatae, Nov. 21, 1905, Canadian Pacific Railway.
Folio 226	June 8.....	File 2335, report on rules and regulations of Bay of Quinté Railway Co.
	July 2.....	File 2406 <i>re</i> boom at Sorel drawbridge, Quebec Southern Railway.
43	Aug. 31.....	File 1699, F. St. Germain's complaint <i>re</i> train service and station facilities, Central Vermont Railway.
45	Sept. 10....	Files 449, 1735, 1472, <i>re</i> facilities at stations for apple shipments, Grand Trunk, Canadian Pacific and Central Ontario Railways.
	1907.	
59	Jan. 22... ..	Rev. J. P. Desrosiers and J. C. Lajeunesse's complaint <i>re</i> rates and freight facilities at Ste. Marguerite, Canadian Pacific Railway.
60	" 23	File 455 <i>re</i> Wm. Krauth's cattle guard device.

COMPARATIVE STATEMENT in totals of Killed and Injured between year ending March 31, 1906, and year ending March 31, 1907.

	PASSENGERS.		EMPLOYEES.		OTHER PERSONS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Year ending March 31, 1906.....	76	43	126	163	179	17	381	223
Year ending March 31, 1907.....	42	210	212	317	206	76	460	603
Increase over 1906.....	.....	167	86	154	27	59	79	380
Decrease for 1907.....	34	.....	.....	.....	.....	.....	.....	.....

INSPECTION OF RAILWAYS.

Reference to Record No.	Date of Report.	Name of Railway.
37	June 27..	Inspection of New Brunswick and Southern Railway.
38	" 30..	" Cumberland Railway and Coal Company.
39	.....	" Dominion Atlantic Railway Company.
40	August 17..	" Quebec Railway Light and Power Company.
42	" 31..	" Atlantic and Lake Superior Railway.

ED. C. LALONDE,
Inspector of Accidents.

APPENDIX H.

THE BOARD OF RAILWAY COMMISSIONERS FOR
CANADA—RULES AND REGULATIONS—
DECEMBER 10, 1906.

APPENDIX H.

MEETING AT OTTAWA.

MONDAY, the 10th day of December, A.D. 1906.

The board, in virtue of the provisions of the Railway Act, 1903, hereby makes the following rules and regulations:—

PUBLIC SESSIONS.

1. The general sessions of the board for hearing contested cases will be held at its Court Room in Ottawa, Ontario, on such dates and at such hour as the board may designate.

When special sessions are held at other places, such announcements as may be necessary will be made by the board.

INTERPRETATION.

2. In the construction of these rules, and the forms herein referred to words importing the singular number shall include the plural, and words importing the plural number shall include the singular number; and the following terms shall (if not inconsistent with the context or subject) have the respective meanings hereinafter assigned to them; that is to say, 'Application' shall include complaint under this Act; 'Respondent' shall mean the person or company who is called upon to answer to any application or complaint; 'Affidavit' shall include affirmation; and 'Costs' shall include fees, counsel fees, and expenses.

APPLICATION OR COMPLAINT.

3. Every proceeding before the board under this Act shall be commenced by an application made to it, which shall be in writing and signed by the applicant or his solicitor; or in the case of a corporate body or company being the applicants shall be signed by their manager, secretary, or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, the section of the Act under which the same is made, and the nature of the order applied for, or the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs, each of which, as nearly as possible, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively. It shall be endorsed with the name and address of the applicant, or if there be a solicitor acting for him in the matter, with the name and address of such solicitor. The application shall be according to the forms in schedule No. 1.

The application, so written and signed as aforesaid, shall be left with or mailed to the secretary of the board, together with a copy of any document, or copies, of any maps, plans, profiles and books of reference, as required under the provisions of the Act, (a) referred to therein, or which may be useful in explaining or supporting the same. The secretary shall number such applications according to the order in which they are received by him and make a list thereof. From the said list there shall be made up a docket of cases for hearing which, as well as their order of entry on the docket, shall be settled by the board. Said docket list when completed to be put upon

(a) For further particulars of plans, &c., see regulations in Appendix.

7-8 EDWARD VII., A. 1908

a notice board provided for that purpose, which shall be open for inspection at the office of the secretary during office hours.

ANSWER.

4. Within ten days from the service of the application, the respondent or respondents shall mail or deliver to the applicant, or his solicitor, a written statement containing in a clear and concise form their answer to the application, and shall also leave or mail a copy thereof with or to the secretary of the board at its office, together with any documents that may be useful in explaining or supporting it. The answer may admit the whole or any part of the facts in the application. It shall be divided into paragraphs, which shall be numbered consecutively, and it shall be signed by the person making the same, or his solicitor. It shall be endorsed with the name and address of the respondents, or if there be a solicitor acting for them in the matter, with the name and address of such solicitor. It shall be according to the form in schedule No. 2.

REPLY.

5. Within four days from the delivery of the answer to the application, the applicant shall mail or deliver a reply thereto to the respondents, and a copy thereof to the secretary of the board, and may object to the said answer as being insufficient, stating the grounds of such objection, or deny the facts stated therein, or may admit the whole or any part of said facts. The reply shall be signed by the applicant or his solicitor, and may be according to form No. 3 in the said schedule.

The board may, at any time, require the whole or any part of the application, answer or reply, to be verified by affidavit, upon giving a notice to that effect to the party from whom the affidavit is required; and if such notice be not complied with the application, answer, or reply may be set aside, or such part of it as is not verified according to the notice may be struck out.

SUSPENSION OF PROCEEDINGS.

6. The board may require further information, or particulars, or documents from the parties, and may suspend all formal proceedings until satisfied in this respect.

If the board, at any stage of the proceedings, think fit to direct inquiries to be made under any of the provisions of this Act, it shall give notice thereof to the parties interested, and may stay proceedings or any part of the proceedings thereon accordingly.

NOTICE.

7. In all proceedings under this Act, where notice is required, a copy or copies of said proceeding, or proceedings, for the purpose of service, shall be endorsed with notice to the parties in the forms of endorsement set forth in schedules Nos. 1 and 2; and in default of appearance the board may hear and determine the application *ex parte*.

Endorsements shall be signed in accordance with the provisions of section 41.

The board may enlarge or abridge the periods for putting in the answer or reply, and for hearing the application, and in that case the period shall be endorsed in the notice accordingly.

Except in any case where it is otherwise provided, ten days' notice of any application to the board, or of any hearing by the board, shall be sufficient; unless, in any case, the board directs longer notice. The board may, in any case, allow notice for any period less than ten days, which shall be sufficient notice as if given for ten days or longer. (Section 43.)

Notice may be given or served as provided by section 41 of the Act.

SESSIONAL PAPER No. 20c

When the board is authorized to hear an application or make an order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the board to be sufficient notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if the due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice; but any person entitled to notice, and not sufficiently notified may, at any time within such further time as the board may allow, apply to the board to vary, amend, or rescind such order or decision; and the board shall thereupon, on such notice to all parties interested as it may in its discretion think desirable, hear such application, and either amend, alter, or rescind such order or decision, or dismiss the application, as may seem to it just and right. (Section 45.)

CONSENT CASES.

8. In all cases the parties may, by consent in writing, with the approval of the board, dispense with the form of proceedings herein mentioned, or some portion thereof.

POWER TO DIRECT AND SETTLE ISSUES.

9. If it appears to the board at any time that the statements in the application or answer, or reply do not sufficiently raise or disclose the issues of fact in dispute between the parties, it may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the board.

PRELIMINARY QUESTIONS OF LAW.

10. If it appear to the board at any time that there is a question of law which it would be convenient to have decided before further proceeding with the case, it may direct such question to be raised for its information, either by special case or in such other manner as it may deem expedient, and the board may, pending such decision, order the whole or any portion of the proceeding before the board in such matter, to be stayed.

PRELIMINARY MEETING.

11. If it appear to the board at any time before the hearing of the application that it would be advantageous to hold a preliminary meeting for the purpose of fixing or altering the place of hearing, determining the mode of conducting the inquiry, the admitting of certain facts or the proof of them by affidavit, or for any other purpose, the board may hold such meeting upon such notice to the parties as it deems sufficient, and may thereupon make such orders as it may deem expedient.

PRELIMINARY EXAMINATION WITH THE PARTIES.

12. The board may, if it thinks fit, instead of holding the preliminary meeting, provided for in rule 11, communicate with the parties direct, and may require answers to such inquiries as it may consider necessary.

PRODUCTION AND INSPECTION OF DOCUMENTS.

13. Either party shall be entitled, at any time, before or at hearing of the case, to give notice in writing to the other party in whose application, or answer, or reply reference was made to any document, to produce it for the inspection of the party giving such notice, or his solicitor, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put in such documents in evidence on his behalf in said proceedings, unless he satisfy the board that he had sufficient cause for not complying with such notice.

7-8 EDWARD VII., A. 1908

NOTICE TO PRODUCE.

14. Either party may give to the other a notice in writing to produce such documents as relate to any matter in difference (specifying the said documents), and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

15. Either party may give to the other party a notice in writing to admit any documents, saving all just exceptions, and in case of neglect to admit, after such notice, the cost of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be; unless, on the hearing, the board certifies that the refusal to admit was reasonable; and no costs of proving any document shall be allowed, unless such notice be given, except where the omission to give the notice is, in the opinion of the board, a saving of expense.

WITNESSES.

16. The attendance and examination of witnesses, the production and inspection of documents, shall be enforced in the same manner as is now enforced in a Superior Court of law: and the proceedings for that purpose shall be in the same form, *mutatis mutandis*, and they shall be sealed by the secretary of the board with the seal and may be served in any part of Canada. (Section 26.)

Witnesses shall be entitled, in the discretion of the board, to be paid the fees and allowances prescribed by schedule No. 4, annexed hereto.

THE HEARING.

17. Two witnesses at the hearing shall be examined *viva voce*; but the board may, at any time, for sufficient reason, order that any particular facts may be proved by affidavit, or that the affidavit of any witnesses may be read at the hearing on such conditions as it may think reasonable; or that any witnesses whose attendance ought, for some sufficient reason, to be dispensed with, be examined before a commissioner appointed by it for that purpose, who shall have authority to administer oaths, and before whom all parties shall attend. The evidence taken before such commissioner shall be confined to the subject-matter in question, and any objection to the admission of such evidence shall be noted by the commissioner and dealt with by the board at the hearing. Such notice of the time and place of examination as is prescribed in the order shall be given to the adverse party. All examinations taken in pursuance of any of the provisions of this Act, or of these rules, shall be returned to the court; and the depositions certified under the hands of the person or persons taking the same may, without further proof, be used in evidence, saving all just exceptions. The board may require further evidence to be given either *viva voce* or by deposition, taken before a commissioner or other person appointed by it for that purpose.

The board may, in any case when deemed advisable, require written briefs to be submitted by the parties.

The hearing of the case, when once commenced, shall proceed, so far as in the judgment of the board may be practicable, from day to day.

JUDGMENT OF THE BOARD.

18. After hearing the case the board may dismiss the application, or make an order thereon in favour of the respondents, or reserve its decision, or (subject to the right of appeal in the Act mentioned) make such other order on the application as may be warranted by the evidence and may seem to it just.

The board may give verbally or in writing the reasons for its decisions. A copy of the order made thereon shall be mailed or delivered to the respective parties. It shall not be necessary to hold a court merely for the purpose of giving decisions.

SESSIONAL PAPER No. 20c

Any decision or order made by the board under this Act may be made an order of the Exchequer Court, or a rule, order, or decree of any Superior Court of any province of Canada, and shall be enforced in like manner as any rule, order or decree of such court. To make such decision or order a rule, order or decree of such court, the usual practice and procedure of the court in such matters may be followed, or in lieu thereof the form prescribed in subsection 2, section 46, of the Act.

The board shall with respect to all matters necessary or proper for the due exercise of its jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights and privileges as are vested in a Superior Court. (Section 26.)

ALTERATION OR RESCINDING OF ORDERS.

19. Any application to the board to review, rescind, or vary any decision or order made by it shall be made within thirty days after the said decision or order shall have been communicated to the parties, unless the board think fit to enlarge the time for making such application, or otherwise orders.

APPEAL.

20. If either party desire to appeal to the Supreme Court of Canada from the decision or order of the board upon any question which, in the opinion of the board, is a question of law, he shall give notice (c) thereof to the other party and to the secretary, within fourteen days from the time when the decision or order appealed from was made, unless the board allows further time, and shall in such notice state the grounds of the appeal. The granting of such leave shall be in the discretion of the board.

For procedure upon such leave being obtained see section 56, subsection 4 *et seq.* of the Act.

An appeal shall lie from the board to the Supreme Court of Canada upon a question of jurisdiction; but such appeal shall not lie unless the same is allowed by a judge of the said court upon application and hearing the parties and the board.

The costs of such application shall be in the discretion of the judge.

INTERIM EX PARTE ORDERS.

21. Whenever the special circumstances of any case seem to so require, the board may make an interim *ex parte* order requiring or forbidding anything to be done which the board would be empowered upon application, notice and hearing to authorize, require or forbid. No such interim order shall, however, be made for a longer time than the board may deem necessary to enable the matter to be heard and determined. (Section 49.)

AFFIDAVITS.

22. Affidavits of service according to the form No. 6 shall forthwith, after service, be filed with the board in respect of all documents or notices required to be served under these rules; except when notice is given or served by the secretary of the board, in which case no affidavit of service shall be necessary.

All persons authorized to administer oaths to be used in any of the Superior Courts of any province, may take affidavits to be used on any application to the board.

Affidavits used before the board, or in any proceeding under this Act, shall be filed with the secretary of the board at its office.

Where affidavits are made as to belief, the grounds upon which the same are based must be set forth.

(c) For form of notice see form No. 5 in the schedule hereto.

7-8 EDWARD VII., A. 1908

COMPUTATION OF TIME.

23. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by this Act, or by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or a day appointed for a public fast or thanksgiving in the Dominion or any of the provinces, in which case the time shall be reckoned exclusively of that day also.

ADJOURNMENT.

24. The board may, from time to time, adjourn any proceedings before it.

25. The board may at any time allow any of the proceedings to be amended, or may order to be amended or struck out any matters which, in the opinion of the board, may tend to prejudice, embarrass, or delay a fair hearing of the case upon its merits and all such amendments shall be made as may, in the opinion of the board, be necessary for the purpose of hearing and determining the real question in issue between the parties.

FORMAL OBJECTIONS.

26. No proceedings under this Act shall be defeated or affected by any technical objections or any objections based upon defects in form merely.

PRACTICE OF EXCHEQUER COURT WHEN APPLICABLE.

27. In any case not expressly provided for by this Act, or these rules, the general principles of practice in the Exchequer Court may be adopted and applied, at the discretion of the board, to proceedings before it.

COSTS.

28. The costs of and incidental to any proceedings before the board shall be in the discretion of the board, and may be fixed in any case at a sum certain, or may be taxed. The board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

SCHEDULE No. 1.

(Forms of Application.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

APPLICATION No. (This No. is to be filled in by the secretary on receipt.)

A. B. of C. D. hereby applies to the board for an order under sections 252-253 of the Railway Act, 1903, directing the _____ Railway Company to provide and construct a suitable farm crossing where the company's railway intersects this farm in lot _____ con. _____ tp. _____ county of _____ Ontarior, and states—

1. That he is the owner of the land, &c.
2. That by reason of the construction of the said railway he is deprived, &c.
3. That it is necessary for the proper enjoyment of his said land, &c.

Dated this _____ day of _____, A.D. 19 _____.

(Signed A. B.)

SESSIONAL PAPER No. 20c .

Endorsements.

The within application is made by A. B. of
(state address and occupation) or by C. D.
of his solicitor.

Take notice that the within named railway company is required to file with the Board of Railway Commissioners within ten days from the service hereof, its answer to the within application.

Form of Application.

(Where no Notice Required.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

Application No.

The Railway Company hereby applies to the board for an order under section 167 of the Railway Act, 1903, sanctioning the plans, profiles and books of reference submitted in triplicate herewith, showing a proposed deviation of its line of railway as already constructed between and , mileage to .

Dated this day of A.D. 19 .

(Signed A. B.)

SCHEDULE No. 2.

(Form of Answer.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application, No. of A.B., for an order under sections 252-253 of the Railway Act, 1903, directing Railway Company to provide a farm crossing.

The said company in answer to the said application states:—

1. That the said A.B. is not the owner but merely, &c.
2. That upon the acquisition of the right of way of the said railway, A.B. was duly paid for and released, &c.
3. That the said A.B. has other safe and convenient means, &c.
4. That, &c.

Endorsements.

The within answer is made by A.B. of
(state address and occupation), or by C.D.
of , his solicitor.

Take notice that the within named applicant is required to file with the Board of Railway Commissioners within four days from the service hereof, his reply to the within answer.

SCHEDULE No. 3.

(Reply.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application of A.B. against the company.

The said A.B., in reply to the answer of the said company, states that:—

1.

2. And the said A.B. admits that

Dated this day of , A.D. 19 .

Signed (Q).

SCHEDULE No. 4.

(Fees and allowances to witnesses.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

To witnesses residing within three miles of the court-room, per diem (not including ferry and meals)	\$1 00
Barristers, attorneys and physicians, when called upon to give evidence in consequence of any professional ser- vices rendered by them, or to give professional opinion, per diem	5 00
Engineers, surveyors and architects, when called upon to give evidence of any professional services rendered by them, and to give evidence depending upon their skill and judgment, per diem	5 00

If the witnesses attend in one case only, they will be entitled to the full allow-
ance. If they attend in more than one case, they will be entitled to a proportionate
part in each case only.

When witnesses travel over three miles they shall be allowed expenses according
to the sum reasonably and actually paid, which in no case shall exceed twenty cents
per mile one way.

SCHEDULE No. 5.

(Notice of Appeal.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application No. _____ of A.B., for an order under
sections 252-253 of the Railway Act, 1903, authorizing the _____ Railway,
&c., &c.

To the Board of Railway Commissioners,
and

To
The above-named applicant (or respondent, as the case may be).

Take notice that the _____ Company will apply to the board on
the _____ day of _____, (not exceeding 14 days from the date
thereof), for leave to appeal to the Supreme Court of Canada from the order of the
board, dated the _____ day of _____, in the matter of the above
application authorizing the expropriation of certain lands referred to in said order,
and directing that compensation or damages to be awarded to the owners of said
lands, or persons interested therein, shall be ascertained as and from the date of the
application (or such other time as may be named in this order).

The grounds of appeal are that as a matter of law, the awarding of such com-
pensation or damages should be ascertained and determined from the date of the
deposit of plan, profile, &c., as provided under section 192 of the Act, and not from
the time stated in the order.

Dated this _____ day of _____
Signed,

Solicitor, &c.

SESSIONAL PAPER No. 20c

SCHEDULE No. 6.

(Form of Affidavit of Service.)

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

In the matter of the application, No. _____, of A.B., for an order under sections 252-253 of the Railway Act, 1903, directing _____ Railway Company to provide a farm crossing.

I, _____ of the city of Ottawa, &c., make oath and say:—

1. That I am a member, &c.

2. That I did on _____ 19____, serve the (C.P.) Railway Company above-named, with a true copy of the (application) of the said (A.B.) in this matter by delivering the same to (C.D.), the secretary of the said company, (or to E.F., the assistant to the general manager) of the company, being an adult person in the employ of the company at the head office of the company in (Montreal), see section 41 (a), which said copy was endorsed with the following notice, viz.:—

(Copy exactly.)

Sworn, &c.

REQUIREMENTS ON APPLICATION HAVING REFERENCE TO PLANS.

No. 1.—General Location of Railway.—Section 157.

Send to secretary of the Department of Railways and Canals: Three copies of map showing the general location of the proposed line of railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tide-water, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway and generally the physical features of the country through which the railway is to be constructed.

First copy to be examined and approved by the minister, and filed in the Department of Railways and Canals.

Second copy to be approved by minister for filing by the company with the board.

Third copy to be approved by minister for the company.

Scale of map—not less than six miles to the inch.

No. 2.—Plan, Profile, &c., of Located Line.—Section 158.

Upon approved general location map being filed by the company with the board, send to the secretary of the board three sets of plans, prepared exactly in accordance with the 'general notes'* as follows:—

1st set—	{ 1 plan. 1 profile. 1 book of reference.	} To be examined, sanctioned and deposited with the board.
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2nd set—Same as 1st.—To be examined, certified and returned for registration.

3rd set—Same as 1st.—To be certified and returned to company.

Scale—Plans—400 feet to the inch.

(N.B.—In prairie country, scale may be 1,000 feet to the inch.)

Profiles— { Horizontal, 400 feet.
 } Vertical, 20 feet.

* General Notes, see pages 17 and 18.

7-8 EDWARD VII., A. 1908

No. 3.—To Alter Location or Curves or Grades of Line Previously Sanctioned or Completed.—Section 167.

Send to the secretary of the board three sets of plans, profiles and books of reference as required in No. 2.

(N.B.—The plans and profiles so submitted will be required to show the original location, grades and curves and railway highway and farm crossings, and the changes desired or necessitated in any of these.)

Scale—Same as No. 2.

No. 4.—Plans of Completed Railway.—Section 164.

Send to the secretary of the board within six months after completion three sets of plans and profiles of the completed road.

1st set to be filed with the board.

2nd set to be certified and returned to the company.

3rd set for registration purposes.

Scale—Same as No. 2.

No. 5.—To take Additional Lands for Stations, Snow Protection, &c.—Section 178.

Send to the secretary of the board three sets of plans and documents as follows:—

1st set—	$\left\{ \begin{array}{l} 1 \text{ application sworn to by officers} \\ \text{required to sign and certify} \\ \text{plans. See 'General Notes,'} \\ 1 \text{ plan, 1 profile.} \\ 1 \text{ book of reference.} \end{array} \right\}$	To be examined and certified and deposited with board.
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2nd set—Same as 1st.	$\left\{ \begin{array}{l} \text{For certificate and return for registration, with duplicate} \\ \text{authority.} \end{array} \right.$
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3rd set—Same as 1st.	$\left\{ \begin{array}{l} \text{Scale—Same as No. 2.} \\ \text{For certificate and return to company, with copy of authority.} \end{array} \right.$
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N.B.—Ten days' notice of application must be given by the applicant company to the owner or possessor of the property, and copies of such notice with affidavits of service thereof must be furnished to the board on the application.

No. 6.—Branch Lines, not Exceeding Six Miles—Sections 221-225.

(a) 1 plan, profile and book of reference same as No. 2 to be deposited in Registry Office.

Upon such registration four weeks' public notice of application to the board to be given.

Send to the secretary of the board an application with copies of the plan, profile and book of reference certified by the registrar as a duplicate of those so deposited in the Registry Office.

A certified copy of the order authorizing the construction of the branch lines to be registered, together with any papers and plans showing changes directed by the board.

A map showing the adjacent country, neighbouring lines, &c., must be sent to the secretary of the board with the application.

Proof of registration and of public notice having been duly given will be required upon the application.

Scale—Same as No. 2.

SESSIONAL PAPER No. 20c

No. 7.—Railway Crossings or Junctions.—Section 227.

Send to the secretary of the board with an application three sets of plan of both roads at point of crossing.

Scale—Plan—100 feet to the inch.

Also three sets of plan and profile of both roads on either side of the proposed crossing for a distance of two miles.

Scale—Plan—400 feet to the inch.

Profile. $\left\{ \begin{array}{l} 400 \text{ feet to inch horizontal.} \\ 20 \text{ feet to inch vertical.} \end{array} \right.$

1st set for approval by and filing with the board.

2nd and 3rd sets to be certified and furnished to the respective companies concerned, with certified copy of order.

The applicant company must give ten days' notice of application to the company whose lines are to be crossed or joined, and shall serve with such notice a copy of all plans and profiles and a copy of the application. Upon completion of work application must be made to the board for leave to operate.

No. 8.—Highway Crossing.—Sections 235 to 243.

Send to the secretary of the board with an application three sets of plans and profiles of the crossings.

Scale—Plan—400 feet to inch.

Profile. $\left\{ \begin{array}{l} 400 \text{ feet to an inch horizontal.} \\ 20 \text{ feet to an inch vertical.} \end{array} \right.$
 Profile of highway $\left\{ \begin{array}{l} 100 \text{ feet to an inch horizontal.} \\ 20 \text{ feet to an inch vertical.} \end{array} \right.$

1st set for approval by and filing with the board.

2nd and 3rd sets to be furnished to the respective parties concerned, with a certified copy of the order approving the same.

The plan and profile shall show at least one-half a mile of the railway and 300 feet of the highway on each side of the crossing.

Plan must show intervening obstructions to the view from any point on the highway within 100 feet of the crossing to any point on the railway within one-half mile of the said crossing.

Where no notice of the application is required, if the company prefers, the above information may be shown on the location plan, and this plan may be used in connection with its application for approval of the highway crossing.

Unless otherwise ordered by the board, the applicant must give ten days' notice of the application to the municipality in which the proposed crossing lies.

No. 9.—Crossing with Wires for Telegraph, Telephones and Powers.—Section 246.

Send to the secretary of the board with the application a plan and profile in duplicate. Profile must show the distance between the different lines of wire.

A copy of plan and profile to be sent to the railway company with notice of application.

7-8 EDWARD VII., A. 1908

No. 10.—Crossings and Works upon Navigable Waters, Beaches, &c.—Section 233.

Upon sight and general plans being approved by the Governor in Council, send to the secretary of the board:—

Certified copy of order in council with the plans and description approved thereby—1 application and 2 sets of detail, plans, profiles, drawings and specifications.

1st set for filing with board.

2nd set to be certified and returned to company with certified copy of order.

Upon completion of work application must be made to the board for leave to operate.

No. 11.—Bridges, Tunnels, Viaducts, Trestles, &c., over 18 feet span.—Section 257.

(a) Must be built in accordance with standard specifications and plans, approved of by the board.

(b) Or detail plans, profiles, drawings, and specifications, which may be blue, white or photographic prints, must be sent to the secretary of the board for approval, &c., as in No. 9.

No. 12.—Stations.—Section 258.

Send to the secretary of the board:—

Two sets of detail plans, profiles, drawings and specifications, with an application for approval.

1st set for filing with the board.

2nd set to be certified and returned to company with certified copy of order of approval.

GENERAL NOTES.

Plans (for Nos. 2 to 6) must show the right of way, with lengths of sections in miles, the names of the terminal points, the station grounds, the property lines owner's names, the areas and length and width of land proposed to be taken, in figures (every change of width being given) the curves and the bearings, also all open drains, watercourses, highways, and railways proposed to be crossed or affected.

Profiles shall show the grades, curves, highway and railway crossings, open drains and watercourses, and may be endorsed on the plan itself.

Books of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving numbers of the lots, and the area, length and width of the portion thereof proposed to be taken and names of owners and occupiers so far as they can be ascertained.

All plans, profiles and books of reference must be dated and must be certified and signed by the president or vice-president or general manager, and also by the engineer of the company.

The plan and profile to be retained by the board must be on *linen*, the copies to be returned may be either white, blue or photographic prints.

All profiles shall be based, where possible, upon sea level datum.

All books of reference must be made on good thick paper and in the form of a book with a suitable paper cover. The size of such books when closed shall be as near as possible to $7\frac{1}{2}$ inches by 7 inches.

Book of reference may be endorsed on the plan.

..... Railway Company.

Division or Province..... Branch.

BOOK OF REFERENCE TO ACCOMPANY LOCATION PLAN SHOWING LANDS REQUIRED FOR RAILWAY PURPOSES.

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7-8 EDWARD VII., A. 1908

INTERLOCKING SYSTEM.

Rules governing the use of interlocking and derailing signals and speed of trains where one railway crosses another at rail level, or where a railway crosses a drawbridge.

1. The normal position of all signals must indicate danger.
2. When the distant semaphore indicates caution, the train passing must be under full control and prepared to come to a full stop before reaching the home signal.
3. When the home signal indicates danger, it must not be passed.
4. When clear signals are shown where one railway crosses another at rail level, the speed of passenger trains must be reduced to thirty-five miles an hour and freight trains to twenty miles an hour, until the entire train has passed the crossing.
5. When clear signals are shown where a railway crosses a drawbridge, the speed of passenger trains must be reduced to twenty-five miles an hour and the speed of freight trains to fifteen miles an hour, until the entire train has passed the drawbridge.

GENERAL REQUIREMENTS.

APPLICABLE TO STEAM RAILWAYS FOR INTERLOCKING, DERAILING AND SIGNAL SYSTEM AT CROSSINGS AT RAIL LEVEL AND AT JUNCTIONS.

The plan and construction of interlocking, signalling and derailing system to be used at rail level crossings and junctions of one railway by another must be arranged to conform to the following general rules:—

1. The normal position of all signals must indicate danger, derail points open and the interlocking so arranged that it will be impossible for the operator to give conflicting signals.
2. The derail points must be placed not less than 500 feet from point of intersection of the crossing of junction tracks, unless in special cases in which the board authorizes in writing a less distance.
3. On side track the position of derail points may be located so as to best accommodate the traffic, and provide the same measure of safety indicated in foregoing rules.
4. On single track railways derail points, when practicable, should be on inside of curve and on double track railway the derail points should be in outside rail on both tracks. On double track railways, back up derails will be required.
5. Home signal posts must be 50 feet beyond point of derail, and the distance between home and distant signals must be not less than 1,200 feet. Signal post should be placed on engineman's side of track it governs.
6. Guard rails should be laid on outside of rail in which the derail is placed and commence at least 6 feet toward home signal from point to derail, extending from thence toward crossing, parallel with and 9 inches distant from track rail, for 400 feet.
7. In case there are crossovers, turnouts, or other connecting tracks involved in the general system, the movements of cars and trains upon which present an element of danger, which danger will be enhanced by the passage of trains on main tracks over crossings without stopping, and consequently at a higher speed than would be the case without the permit sought, then, and in all such cases whether such enhanced danger be of collision between cars and trains of the same railway, or between cars or trains of different railways, it will be necessary, in addition to the protection of the main crossing, to provide by proper appliances against any such increased collateral dangers in the same complete manner as is required in the case of the main crossing.
8. Application for inspection of interlocking plant must be made to the board accompanied by a plain diagram, showing location of crossing and position of all main tracks, sidings, switches, turnouts, &c.

The several tracks must be indicated by letters or figures, and reference made to each, explaining the manner of its use. The rate of grade on each main track must be shown, together with numbers of signals, derails, locks, &c., corresponding to levers in tower.

SESSIONAL PAPER No. 20c

It is intended herein to state general rules, which will govern the construction of any proposed system of interlocking. The traffic to be done, relative position and operation of intersecting lines may require safeguards not mentioned herein.

The system of derailing, signalling and interlocking must be connected and worked and be complete in each particular before the board will grant an order authorizing the operation of such interlocking, derailing and signal system, or the crossing by the railway ordered to put on the system.

GENERAL REQUIREMENTS FOR INTERLOCKING AT DRAWBRIDGES.

Interlocking, signalling and derailing systems to be used at drawbridges must be arranged to conform to the following general rules:—

1. The normal position of all signals must indicate danger, derail points open, and the interlocking so arranged that it will be impossible for the operator to open the draw until signals and derails are set against the approaching train movement.
2. Where the grade is practically level the derailing points shall be located not less than 500 feet from the ends of the bridge, but in case of a descending grade towards the bridge, the derailing point must be located at such distance from the bridge as to give the same measure of protection that is required for a level approach.
3. On single track railways, derail points, when practicable, should be on the inside of curve, and on double track railways, the derail points should be in outside rails of both tracks.
4. On double track railways back-up derails will be necessary.
5. Home signal posts must, when practicable, be located on the engineman's side of the track they govern, and should be not less than fifty (50) feet nor more than two hundred (200) feet in advance of the point they govern, the distant signals should be located not less than twelve hundred (1,200) feet in advance of the home signal, with which it operates and on the same side of the track. The distance signal should be distinguished by a notch cut in the end of the semaphore arm.
6. The arms and back lights of all signals should be visible to the signalman in the tower. If from any cause, the arm or light of any signal cannot be placed so as to be seen by the signalman, a repeater or indicator should be provided in the tower.
7. Guard rails should be laid on outside of rail in which the derail is placed and, commencing at least 6 feet in advance of derail, should extend thence towards the end of the bridge, parallel with and 9 inches from track rail, for not less than 400 feet.
8. Application for inspection must be made same as for railway crossings.

By order of the board,

A. D. CARTWRIGHT,
Secretary.

APPENDIX I.

STANDARD CONDITIONS AND SPECIFICATIONS FOR
TELEPHONE CROSSINGS.

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(Approved by Order of the Board of Railway Commissioners for Canada, dated March 27th, A.D. 1907.)

PART 1.—OVER-CROSSINGS.

(a) *Conditions.*

1. The telephone company, shall, at all times, at its own expense, maintain in good order and condition and at the height called for by the specifications hereinafter set forth, the lines, wires, and cables crossing the said railway so that at no time shall any damage be caused to the company owning, operating, or using the said railway, or to any person lawfully upon or using the same, and shall use all proper and necessary means to prevent any such wires and cables from sagging below said height.

2. The telephone company shall, at all times, wholly indemnify the company owning, operating, or using the said railway of, from, and against all loss, costs, damage, and expense to which the said railway company may be put by reason of any damage or injury to person or property caused by any of the said wires or cables, or any works or appliances herein provided for, not being erected in all respects in compliance with the terms and provisions of this order, or if, when so erected, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of this order, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of any of the employees or agents of the telephone company.

3. No work shall at any time be done under authority of this order in such a manner as to obstruct, delay, or in any way interfere with the operation or safety of the trains or traffic on the said railway.

4. Where in effecting any such crossing, the telephone company desires to erect poles between the tracks of the railway before any work in connection with such crossing is begun, the telephone company shall give to the railway company owning, operating, or using the said railway, at least forty-eight hours prior notice thereof in writing, and the said railway company shall be entitled to appoint an inspector under whose supervision such work shall be done and whose wages, at a rate not to exceed \$3 per day, shall be paid by the telephone company.

5. Where wires or cables to be carried across the railway are to be carried above existing telegraph or other telephone wires and across a trolley wire or other high voltage wires, either within the spans to be constructed across the railway or within the spans next thereto on either side, such additional precautions shall be taken by the telephone company by placing of guard wires or other protective devices as the engineer of the board shall consider necessary.

6. Nothing in this order shall prejudice or detract from the right of the company owning, operating, or using the railway to adopt at any time the use of electric or other motive power and to place and maintain upon or under its right of way such poles, lines, wires, cables, pipes, conduits, and other fixtures and appliances as may be necessary or proper for such purposes. Liability for the cost of any removal, change in location, or construction of the poles, lines, wires, cables, or other fixtures or appliances erected by the telephone company under authority of this order over the tracks of the said railway company, rendered necessary by any of the matters referred

7-8 EDWARD VII., A. 1908

to in this paragraph, shall be fixed by the board on the application of any party interested.

7. Any dispute arising between the telephone company and the said railway as to the manner in which the said wires and cables are being erected, maintained, used, or repaired shall be referred to the engineer of the board, whose decision shall be final.

8. The wires and cables of the telephone company shall be erected and maintained across the said railway in accordance with the plan approved by the board and the specifications following:—

(b) *Specifications.*

Location of Poles.—Poles to be located, wherever possible, a distance from the rail not less than equal to the length of the poles used.

Poles must, under no circumstances, be placed less than 12 feet from the rail of a main line, or less than 6 feet from the rail of siding. At loading sidings, sufficient space to be left for driveway.

Setting of Poles.—Poles of 25 feet to 34 feet in length to be set not less than 5 feet; 35 feet, $5\frac{1}{2}$ feet; 36 to 50 feet, not less than 6 feet, and over 50 feet, 7 feet in solid ground. Poles with side strains to be reinforced. Poles to be at least 7 inches in diameter at top. In soft ground, poles must be set so as to obtain the same amount of rigidity as would be obtained by the above specifications for setting poles in solid ground.

Length of Span.—Span must be as short as possible consistent with the rules of locating and setting of poles.

Fitting of Poles.—The pole at each side of a railway must be fitted with double cross-arms, dimensions not less than 3 inches x 4 inches, equipped with $1\frac{1}{4}$ -inch hardwood pins nailed in arms; arm to be properly fastened to the pole in a gale by not less than two lag screws $\frac{1}{2}$ x 7 inches, or by a $\frac{5}{8}$ -inch machine bolt through the pole; arms carrying more than two wires or carrying a cable must be braced by two iron braces fastened to the arm by $\frac{3}{8}$ -inch carriage bolts, and to the pole by a lag screw 5 x $\frac{3}{8}$ -inch.

Height of Wires.—The lowest wire must not be less than 25 feet from top of rail for spans up to 145 feet, $2\frac{1}{2}$ feet additional clearance must be given for every 20 feet additional length of span. Wires crossing over or under telegraph or telephone wires erected along the railway right of way must clear either 3 feet over or 3 feet under.

Where open lines are strung across railway tracks, the stretch must consist of copper wire, to be not less than No. 13 New British Standard gauge .080 inches in diameter. Wire to be tied to the insulator by a soft copper tie wire of same dimensions as line wire, not less than 20 inches in length. Where a number of rubber covered wires are strung across railway tracks, they may be made up into a cable by being twisted on each other or sewn with marline, which must be tied every 3 inches, and the whole securely fastened to the poles by marline. Guy wires crossing railway tracks must consist of either 7 stranded No. 16 or No. 13 galvanized steel wire, and must be clearly indicated as guy wires on the plan accompanying the application.

Guards.—An iron hook guard to be placed on the end of each cross-arm, or a wire loop guard over each wire and fastened by staples to the cross-arm.

Cable.—Where cables are strung across tracks, they must be carried on a suspension wire of not less than 7 strands of No. 13 galvanized steel wire, which when cross-arms are used will be attached to a $\frac{3}{4}$ iron hook; or when fastened to poles, a malleable iron messenger hanger bolted through the poles; the cable to be attached to the suspension wire by cable clips not more than 20 inches apart.

Rubber insulated cables of less than $\frac{3}{4}$ -inch in diameter may be carried on a suspension wire of not less than 7 strands of No. 16 galvanized steel wire.

SESSIONAL PAPER No. 20c

PART 2.—UNDER-CROSINGS.

(a) *Conditions.*

1. The line or lines, wire or wires, shall be carried across the railway in accordance with the approved plan, and a pipe or pipes, conduit or conduits, and each shall, for the whole width of the right of way adjoining the highway, be laid at the depth called for by, and shall be constructed, maintained, renewed, and repaired according to, the specifications hereinafter set forth.

2. All work in connection with the laying, maintaining, renewing, or repairing of each pipe or conduit, and the continued supervision of the same, shall be performed by, and all costs and expenses thereby incurred be borne and paid by, the telephone company; but no work shall, at any time, be done under authority of this order in such a manner as to obstruct, delay, or in any way interfere with the operation or safety of the trains or traffic on the said railway.

3. The telephone company shall, at all times, maintain each pipe or conduit in good order and condition and so that at no time shall any damage be caused to the property of the railway company, or any of its tracks be obstructed, or the usefulness or safety of the same for railway purposes be impaired, or the full use and enjoyment thereof by the said railway company be in any way interfered with.

4. Before any work of laying, renewing, or repairing any pipe or conduit is begun the telephone company shall give to the railway company at least forty-eight hours prior notice thereof, in writing, accompanied by a plan and profile of the part of the railway to be affected, showing the proposed location of such pipe or conduit and works contemplated in connection therewith, and the said railway company shall be entitled to appoint an inspector to see that the telephone company, in performing said work, complies, in all respects, with the terms and conditions of this order, and whose wages, at a rate not exceeding \$3 per day, shall be paid by the telephone company.

5. The telephone company shall, at all times, wholly indemnify the company owning, operating, or using the said railway of, from, and against all loss, costs, damage, and expense to which the said railway company may be put by reason of any damage or injury to person or property caused by any pipe or conduit, or any works or appliances herein, or in the order authorizing the work provided for, not being laid and constructed in all respects in compliance with the terms and provisions of this order, or if, when so constructed and laid, not being at all times maintained and kept in good order and condition and in accordance with the terms and provisions of said order, or any order or orders of the board in relation thereto, as well as any damage or injury resulting from the imprudence, neglect, or want of skill of any of the employees or agents of the telephone company.

6. Nothing in this order shall prejudice or detract from the right of any company owning, or operating, or using the said railway to adopt, at any time, the use of electric or other motive power, and to place and maintain upon or under the said right of way such poles, wires, pipes, and other fixtures and appliances as may be necessary or proper for such purposes. Liability for the cost of any removal, change in location, or construction of the pipes, conduits, wires, or cables constructed or laid by the telephone company under authority of this order, rendered necessary by any of the matters referred to in this paragraph, shall be fixed by the board on the application of any party interested.

7. Any dispute arising between the telephone company and any company owning, using, or operating said railway as to the manner in which any pipe or conduit, or any works or appliances hereinbefore provided for, are being laid, maintained, renewed, or repaired, shall be referred to the engineer of the board, whose decision shall be final and binding on all parties.

7-8 EDWARD VII., A. 1908

(b) *Specifications.*

Duct.—Vitrified clay, creosoted wood, iron pipe or fibre may be used.

Depth.—The excavation must be of sufficient depth to allow the top duct to be at least 3 feet below the bottom of the ties of the railway tracks.

Laying.—The duct to be laid on a base of 3 inches of concrete mixed in proportion, 1 of cement, 3 of sand, and 5 of broken stone or gravel.

Where stone is used, such stone not to be of greater size than will permit of its passage through a 1-inch ring.

After ducts are laid, the whole to be encased to a thickness of 3 inches on top and sides in concrete mixed in the same proportion as above.

Filling in.—The excavation must be filled in slowly and well tamped on top and side.

Guard.—The excavation must be at all times safely protected.

